



RFQ # 2526-16
REQUEST FOR QUALIFICATIONS (RFQ)
FOR CONSTRUCTION SCHEDULING
CONSULTING SERVICES

RFQ Questions Due Date:

March 31, 2026 @ 5:00 p.m.

RFQ Due Date:

April 14, 2026 @ 2:00 p.m.

NORTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
1830 W. ROMNEYA DRIVE, ANAHEIM, CA 92801-1819

1.00 PURPOSE OF RFQ

The North Orange County Community College District (District) requests the submission of Statements of Qualifications (SOQ) from qualified firms to provide future Construction Scheduling Consulting Services. District facilities are Cypress College, Fullerton College, and the Anaheim Campus. The District is seeking to identify consultants that will provide "Construction Scheduling Services (Services) ensuring that every construction schedule submitted aligns with project specifications, design plans, and recognized industry scheduling practices. Consultant shall provide all labor, tools, equipment, and supervision to perform services on an as needed basis on-call.

Selection will result in a pool of Construction Scheduling Consulting Service Providers ("Construction Scheduling Service Pool" or "Pool") expected to provide services to the District on an as-needed basis for a minimum of three (3) years with an option to extend eligibility for another two (2) years and not to exceed five (5) years. If you would like to submit a response to this RFQ, review "Instructions for Submitting a SOQ" section for instructions. This document outlines the requirements, selection process, and documentation necessary to submit qualifications in response to this solicitation.

The District may modify the RFQ prior to the deadline for submittals by issuance of an electronic addendum on the District's Planet Bids Vendor.

(<https://vendors.planetbids.com/portal/55147/portal-home>)

Following identification of qualified Consultants selected for the Pool, the District may request project-specific Request for Proposal ("RFP") on an as needed basis from the Pool. An Agreement will be awarded to the Consultant(s) which, in the judgment of the District, best accomplishes the desired results, and shall include, but not be limited to, a consideration of the professional service fee. Notice to Proceed on Project work is typically immediately upon receipt, from the Consultant, a fully executed Agreement and submittals of required documentation as approved by the District.

The District reserves the right to request proposals from outside of the Pool of services at any time. The District reserves the right to request a scope of work and fee proposal from one or more of the Consultants in the Pool and may choose to award an agreement to any of the Consultants at its sole discretion.

Attached is a copy of the District's Standard Consultant Agreement (Attachment A). The sample standard Agreement (Attachment A) is not to be included with the Consultant's SOQ submittal. Specific project needs may include only a portion of the services identified therein. The exact scope of services required by the District will be set forth in future project-specific RFP(s). Consultants are expected to identify, in the SOQ, the services for which they would like to submit. The selected Consultant, should Consultant accept the Project, will sign the Agreement as-is. Modifications to the Agreement may be discussed should the District choose to exercise this option.

2.00 GENERAL INSTRUCTIONS (Consultants should carefully read and follow all directions in this RFQ)

2.01 Standard District Documents, Forms, and Additional Information

The following documents are a part of this RFQ. Consultants are advised to ensure that they have the most recent documents. The following documents are attached to the RFQ as detailed below:

Attachments:

- A. Agreement
- B. Billing Rate Form
- C. Drug-Free Workplace Certification
- D. Non-Collusion Affidavit
- E. Consultant Declaration

The Standard Consultant Agreement may be modified, based on project-specific needs, by the District. The selected Consultant, should the Consultant agree to perform the project offered, will sign the Agreement as-is. Modifications to the Agreement may be discussed should the District choose to exercise this option.

2.02 No Commitment to Award / Non-Binding

Issuance of this RFQ and receipt of SOQs does not commit the District to award an Agreement. This RFQ shall in no way be deemed to create a binding contract or Agreement of any kind between the District and the Consultants. **Selection of a Firm to participate in the Pool of pre-qualified consultants does not guarantee the award of an Agreement.**

2.03 Irregularities

The District reserves the right to reject any or all applicants, incomplete packets, non-responsive applicants, and to waive any irregularities or informalities in the RFQ. The decisions to provide a waiver shall in no way modify or compromise the overall purpose of the SOQ, nor excuse the Consultant from full compliance with all requirements if awarded an Agreement.

The District reserves the right to reject any or all proposals, to alter the selection process in any way, to postpone the selection process for its own convenience at any time. District is an equal opportunity employer.

2.04 Rejection of SOQs

The District may reject any or all SOQs and may waive any immaterial deviation in a SOQ. The District's waiver of an immaterial defect shall in no way modify the RFQ documents or excuse the Consultant from full compliance with the specifications if awarded the contract.

2.05 Disposition of the SOQs

SOQs become the property of the District. The information contained in all SOQs shall be held confidential to the extent permitted by law. All materials, ideas, and formats submitted in response to this SOQ will become the property of the District upon receipt and may be returned only at the District's option.

2.06 Cancellation

While it is the intent of the District to include all pre-qualified successful Consultants, this solicitation does not obligate the District to enter into any agreement or contract. The District reserves the right to cancel this RFQ at any time, in the best interest of the District. No obligation, either expressed or implied, exists on the part of the District to make an award or to pay any costs incurred in the preparation or submission of a proposal in response to this RFQ.

2.07 Modifications

The District expressly reserves the right to modify any portion of this RFQ prior to the latest date/time for submission of RFQ responses. Modifications, if any, made by the District to the RFQ will be in writing; potential Consultants who have obtained this RFQ from the District prior to any such modifications will be issued modifications to the RFQ by written addenda.

2.08 Exceptions / Deviations

Any exceptions to or deviations from the requirements set forth in this RFQ must be declared in the submission by the Consultant. Such exceptions or deviations must be segregated as a separate element of the SOQ under the heading "Exceptions and Deviations". If you wish to present alternative approaches to meet the District's work requirements, these should be thoroughly explained.

3.00 SCOPE OF SERVICES

Selected Construction Scheduling Consulting Service Firms shall fulfill the responsibilities delineated in the scope of services ("Services") set forth herein and any additional responsibilities reasonably necessary and customarily provided by Firms conducting business in the Southern California area for this type of work. The review teams are required to be AACE – Planning & Scheduling Professional or PMI – Scheduling Professional. The scope of services to include, but are not limited to the following:

3.01 Introduction and General Information

The Construction Scheduling Consultant shall review base line construction schedules, updated schedules and resource-loaded project schedules, developed by the Construction Manager or General Contractor and provide input and feedback to the District to avoid risks, meet deadlines and control costs. The Construction Scheduling Consultant shall work closely and in cooperation with the Campus' Project Team, District Facilities Office, and District Staff, and shall be accessible at all times for review and coordination with both the Campus' Project team and the District staff.

The Construction Scheduling Consultant shall have working knowledge of the following:

- California Public Contract Code
- California Education Code
- Division of the State Architect (DSA) oversight
- California public works contracting practices, and familiarity with DSA review timelines and other permitting state agencies.
- Coordination with utility agencies, jurisdictions, and regulatory bodies
- Understanding of typical California weather impacts, inspection requirements, and third-party coordination influences on schedules.

3.02 Task Description

When working with the Campuses, the CONSTRUCTION SCHEDULING CONSULTANT shall receive directions, co-operate, and work collaboratively with the DISTRICT's representatives on the Campuses, namely, the Campus Project Manager. Additionally, as necessary, may be involved in meetings with the Architect, General Contractor, or Construction Manager. The Construction Scheduling Consultant, as a minimum, shall undertake the following responsibilities:

The scope of work, as described herein, shall be provided for the following:

- A. The Construction Scheduling Consultant shall provide observations and/or concerns related to the schedule during preconstruction, if required and when establishing the base-line construction schedule.
- B. Monthly construction schedules will be reviewed on an as-needed basis.
- C. Software to be used includes, but is not limited to Primavera P6, Primavera Schedule Comparison, Microsoft Project, and Procore.
- D. The Construction Scheduling Consultant shall have a deep understanding of scheduling techniques utilized by the industry and will verify the schedule is appropriate for the size and complexity of the Project; provide highlights of standard factors to be considered and best practices.

Construction Scheduling Services are not limited to the following phases: Pre-Construction which includes Construction Document Preparation (Working Drawings) and bidding; Construction; Close-Out.

The following are expected to be addressed by the Construction Scheduling Consultant:

- E. Analyze the critical path and constraints, milestones changes, activity logic, report variances, long lead items, duration changes, and offer guidance and strategies to correct items as needed.

- F. Assess compliance with schedule provision requirements reflected in the General Conditions, Supplementary Conditions, and Division 1.
- G. Monitor and evaluate project schedule progress and identify conflicts and developing issues.
- H. Provide recommendations for schedule improvement based on actual or potential impact of design changes and work performance.
- I. Ensure the Substantial Completion and Completion dates shown in the schedule are in agreement with dates agreed to with the District.
- J. Identify the need for modification of the schedule
- K. Participate in negotiations with the General Contractor on an as-needed basis. After negotiations, assist in preparing final documentation.
- L. Work with the Campus Project Manager in identifying potential issues affecting look-ahead schedules and develop effective solution plans.
- M. Conduct schedule delay/disruption and time impact assessment (TIA) analysis to determine cause and effect. Determine responsibility for delay and relationships to impacted activities, identify concurrent delays, and determine whether delays are excusable and compensable.
- N. Analyze schedule change orders and prepare schedule delay estimates/analysis.
- O. Report on schedule status and updates to project stakeholders and interface with Campus Project Managers to discuss analysis and performance.
- P. Work in collaboration with Campus Project Managers to drive consistency of the project scheduling approach to facilitate accuracy in project executions and reporting.
- Q. Communicate and rectify potential scheduling problems.
- R. Provide schedule analysis support related to potential delays, accelerations, or mitigation efforts.
- S. Perform high-level delay assessments using accepted CPM methodologies when directed by the Owner.
- T. Prepare clear, factual schedule narratives and graphics suitable for project records, negotiations, or dispute resolution support.

The Construction Scheduling Consultant shall review schedule narratives and time impact analysis, when necessary, provided by the Construction Manager or General Contractor. The schedule narrative requirements are:

- U. Anticipated production rates or anticipated workforce (e.g. number of crews, crew types etc.)
- V. Permit or utility time requirements.
- W. Right of Way requirements and anticipated timeframe.
- X. Lead time for special materials.

- Y. Any critical milestone or interim completion dates.
- Z. Any anticipated issues meeting the District's schedule.
- AA. Analysis of any acceleration applied to the construction schedule.

4.00 SOQ SUBMITTAL

All SOQs shall be considered, subject to acceptance by the District, and may not be withdrawn for a period of 120 calendar days following the last day to accept SOQs. SOQs may not be amended after the due date, except with the consent of the District.

4.01 Selection Process Schedule

The District reserves the right to change and/or modify the schedule. This is a proposed schedule that is subject to change. Any changes to the schedule for the RFQ/SOQ process will be issued to all Consultants via addenda.

Scheduled Activities	Dates
RFQ Release	March 12, 2026
Last day to submit SOQ questions.	March 31, 2026 @ 5:00 p.m. (PST) via NOCCCD Planet Bids Vendor Portal
SOQ due. All late submittals will be automatically disqualified	April 14, 2026 @ 2:00 p.m. (PST) via NOCCCD PlanetBids Vendor Portal
Information to the Board of Trustees.	TBD
Selected Consultants informed.	TBD

4.02 Submittal of SOQs

SOQs must be submitted online via NOCCCD Planet Bids Vendor Portal at or before the date and time (PST) set in the Selection Process Schedule. SOQs will only be accepted online in electronic format through the District's Planet Bids Vendor Portal, and no other forms of submission will be accepted.

The NOCCCD Planet Bids Vendor Portal is located at:

(<https://vendors.planetbids.com/portal/55147/portal-home>)

4.03 Responsibility for Timely Submittal of SOQs

It is the Consultant's responsibility to ensure SOQs are submitted online via NOCCCD Planet Bids Vendor Portal before the date and time (PST – Pacific Standard Time).

Late SOQs are not accepted and may be returned to the Consultant or discarded without evaluation. The Consultant will be disqualified. It is the practice of the District not to consider late submittals. The District shall not be responsible for, nor accept as a valid excuse, a late submittal delivery.

4.04 Consultant's Cost

Each Consultant acknowledges and agrees that the preparation of all materials for submittal to the District and all presentations, related costs and travel expenses are at the Consultant's sole expense, and the District is not, under any circumstances, responsible for any cost or expense incurred by the Consultant. Consultants shall not include any such expenses as part of their SOQs.

5.00 QUESTIONS FROM CONSULTANTS

5.01 Clarifications and Questions from Consultants

All communications regarding this RFQ including requests for information or clarification of the intent or content of this RFQ must be submitted online via NOCCCD Planet Bids Online Vendor Portal by the date and time (PST) set for submitting questions stated in the Selection Process Schedule.

Written addenda will be published online via NOCCCD Planet Bids Vendor Portal (<https://vendors.planetbids.com/portal/55147/portal-home>) on or before the date fixed for issuing addenda as stated in the Selection Process Schedule. **All Consultant shall be responsible for the contents of all RFQ addenda, and it shall be the responsibility of each Consultant to ensure that all addenda have been reviewed by checking the District's Planet Bids Vendor Portal.** Responses to the written questions received by the deadline will be incorporated in an RFQ addendum.

Failure of Consultant to acknowledge receipt of any addenda shall not relieve the Consultant from any obligation therein. Consultant should acknowledge any and all notifications sent by the District regarding this RFQ by clicking the acknowledgement on Planet Bids.

The District shall not be obligated to answer any questions received after the above-specified deadline or any questions submitted in a manner other than as instructed.

Consultants shall not contact any District employee or official (including any Board members) regarding this RFQ other than the individual listed below as the contact person. Contacting District staff or officials (including Board members) regarding this RFQ will result in disqualification. This will ensure that all Consultants receive the same information in a timely manner.

Name:	Mireille Hernandez
Title:	Interim District Director, Purchasing
Department:	Purchasing Department, 8 th Floor
Address:	1830 West Romneya Drive, Anaheim, CA 92801
Telephone:	(714) 808-4848
E-Mail:	mhernandez@noccdd.edu

6.00 INSTRUCTIONS FOR SUBMITTING SOQ

The SOQ should be well organized and as concise and complete as possible while still providing the requested information.

Consultants shall submit an SOQ in accordance with the following instructions:

- A. All materials submitted as part of a SOQ in response to the RFQ shall be in 8-1/2" x 11" standard format in portrait orientation with each page clearly numbered on the bottom. All submitted materials must be submitted online via NOCCCD Planet Bids. All other forms of submittals will be rejected and considered disqualified.
- B. The SOQ must be wet signed by a person authorized to bind the Firm and submitted online.
- C. SOQs should be typed; minimum size font is ten (10) and should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged; SOQs should be brief and concise. The form, content, and sequence of the submittals should follow the outline listed in this RFQ.
- D. The SOQ shall not exceed 20 pages, excludes Transmittal Letter, Cover Page, Table of Contents, separating Section Title Pages, items under Additional Materials section,

Appendices, and District required forms. Non-responsive SOQs will be automatically disqualified. Additional time will NOT be given to provide missing information.

- E. **Added Materials:** Consultants are not prohibited, but are discouraged from submitting additional materials, not required in the RFQ Contents/Format. However, if a Consultant elects to submit additional materials, this documentation should be separately bound from the information requested and labeled "Additional Information". The Evaluation Team may choose to review the additional material but will not be required to do so.
- F. Submit the SOQ online in electronic format to the District's Planet Bids Vendor Portal for the Selection Process prior to the date and time (PST) indicated in the Selection Process Schedule. **No other forms of submission for the SOQs will be accepted.**

The District reserves the right to reject any or all applicants, incomplete packets, non-responsive applicants, and to waive any irregularities or informalities in the RFQ process. The decisions to provide a waiver shall in no way modify or compromise the overall purpose of the SOQ, nor excuse the Consultant from full compliance with all requirements if awarded an Agreement. District is an equal opportunity employer.

7.00 CONTENTS OF SOQ - REQUIRED INFORMATION

The SOQs shall provide a comprehensive, but concise summary of qualifications and capabilities to satisfy the requirements of the RFQ. Provide the following information, in the order listed below, in your SOQ. SOQs should be organized with Section Title Pages corresponding to the following requirements. Provide concise and complete responses; non-requested information and lengthy responses are discouraged. The review team may, at its discretion, call the contacts provided or others as may become known for reference checks.

7.01 Cover Letter

A cover letter of transmittal containing the following, maximum two (2) pages:

- A. Identification of the Firm including name, mailing address, e-mail address, and telephone number
- B. Reference to the RFQ and confirms that all elements of the RFQ have been read and understood.
- C. Acknowledgement that Consultant has reviewed each and every addendum associated with this RFQ.
- D. Name, title, address, and telephone number of contact person during period of SOQ evaluation.
- E. Include number of years in business, whether or not the Firm has gone by a different name while under substantially the same management, and a list of your senior member(s)' length of association with your Firm.
- F. Identification of any information contained in the SOQ which the Consultant deems to be, and establishes as confidential or proprietary and wishes to be withheld from disclosure to others under the state Public Records Act (a blanket statement that all contents of the submittal are confidential or propriety will not be honored by the District)
- G. Electronic signature on the SOQ of a person authorized to bind the Firm to the terms of the submitted SOQ.

7.02 Table of Contents

Table of Contents for material included in the SOQ.

7.03 Firm Services

Provide a list for the following:

- A. Basic services provided by your Firm.
- B. Additional services provided by your Firm.

- C. Professional consultant services provided by your Firm.
- D. Services not provided in-house.

7.04 Firm's Experience

Provide the Firm's experience by listing the range of project sizes completed from very small to very large projects, in this order, based on construction dollar values with public California community colleges, public and private universities and K-12 school projects including the scope of services your Firm provided, description of the Project and completion date for the relevant projects in the last five (5) years. Include reference contact name, title, email address, and phone number for each listed project. Include examples of modernization, renovation, and new construction projects.

7.05 Personnel

This section of SOQ should establish the ability of the Consultant to satisfactorily perform the required services as demonstrated by its representation of staff availability for future projects and the ability to manage backlog of current services. Information shall further specifically include:

- A. Work plan with the current workload and next six (6) months backlog and plan for addressing this work.
- B. List your Firm's professional and support positions including the number of personnel in each position.
- C. Provide an organization chart of your Firm of all personnel who may be committed to as-needed District projects ("Project Team"). Specifically define the role of each person and outline his or her individual experience as well as any professional qualifications. The Project Team and professional subconsultants assigned to District projects must:
 - 1. Possess the minimum qualification to perform the services provided.
 - 2. Have knowledge and understanding of codes, major services and activities required to perform services provided.
 - 3. Have a minimum of three (3) years of directly related experience to California community colleges and K-12.
- D. Consultants must provide a statement that all proposed participants will meet or exceed the minimum qualifications specified herein.
- E. Provide location and address of office where the Project team members will complete the Construction Scheduling service of the Project. If your Firm utilizes resources from more than one office, indicate office locations and how work would be coordinated.
- F. Provide copies of any California professional license(s), certifications, and affiliations for your Firm. Include as "**Appendix A**" labeled "**Licenses and Certifications – Firm Personnel.**" Appendices will not count towards the 20-page maximum limit. Do not add marketing materials or elaborate in this appendix. Keep this section strictly for what is requested. **PLEASE NOTE:** licensed professional in general responsible charge MUST be directly employed by the responding Consultant and NOT employed as a subconsultant.
- G. Provide resumes, in the appendices as noted below. Maximum one (1) page per person, which will not count towards the maximum page count. Resumes should include specific information as to their experience on California State-funded and/or non-state funded community college projects. Out-of-state experience may not be considered as experience for the District's needs. Do not add marketing material or elaborate in these appendices. Keep it strictly for what is requested.
 - 1. Proposed Project Team, from your Firm only, who would likely be assigned to the District's projects. Resumes should be placed as part of "**Appendix B**" labeled "Resumes – Firm Personnel."
 - 2. Proposed professional subconsultants who would likely be assigned to the District's projects. Resumes should be placed as part of "**Appendix C**" labeled "Resumes – Professional Subconsultants."

7.06 Billing Rates and Schedule of Fees

Provide billing rates for all personnel and categories of employees, testing fee schedule, as well proposed professional subconsultants utilizing the District's Billing Rate and Schedule of Fees form, **Attachment B**. Include as "**Appendix D**" labeled "Billing Rates."

Billing rates shall be **all-inclusive** and include/account for all direct labor costs, fringe benefits, travel, insurance, overhead, profit, and all other expenses the Consultant will incur in providing Services. If applicable, Consultant's SOQ should provide estimates for certain standardized components of the Services.

7.07 Insurance

The District requires the minimum limits of insurances for consultant and sub-consultants as listed below. All such insurance shall be on an occurrence basis and should name the District as additional insured. Policies shall have a non-renewal or cancellation clause of not less than thirty (30) days.

- A. Commercial General Liability Insurance (CGL) with a combined single limit of not less than One Million Dollars (\$1,000,000) each occurrence / Three Million Dollars (\$3,000,000) in the annual aggregate. Umbrella policies will not be accepted to substitute for the insurance requirement.
- B. Commercial Automobile Liability Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) each accident and Three Million Dollars (\$3,000,000) aggregate. Umbrella policies will not be accepted to substitute for the insurance requirement.
- C. Professional Liability (Errors & Omissions) Insurance with a limit not less than One Million Dollars (\$1,000,000) each occurrence / Three Million Dollars (\$3,000,000) in the annual aggregate. Umbrella policies will not be accepted to substitute for the insurance requirement.
- D. Workers' Compensation Insurance as required by the state of CA with a minimum of One Million Dollars (\$1,000,000).

Include the following responses in the SOQ:

- A. A statement of understanding of the District's insurance requirements including a statement that the Consultant is able to meet those requirements if a contract is offered to the Consultant.
- B. Deductible on each insurance policy above.
- C. Confirmation that the insurance carrier(s) has a Best Key Rating Guide of "A" or better as a California admitted insurer.
- D. Number of years with the insurance carrier(s).
- E. Claims made on any policy of insurance held by the organization. Include detailed explanations of the nature and type(s) of claims, whether the claim has been resolved, and the terms of the resolution.

7.08 Litigation

List any judgments and any other evidence of liability by the Consultant or any of its current or former members (proposed in this SOQ) during the past five (5) years preceding response to this RFQ. Explain the circumstances and outcome of any litigation, arbitration, or claims filed against your company by a public agency client or any of the same you have filed against a public agency client. Explain the circumstances and outcome of any litigation, arbitration, or claims filed against your company by any client other than a public agency client or any of the same you have filed.

If your Firm does not have any litigation, SOQ should state there are no litigation issues that need to be included. This information will not be made public but will be kept confidential by the District. Omission of this requirement is an automatic disqualification.

7.09 Affidavits and Certification Forms

As evidence of conformance to the District's policies, District Forms included with this RFQ must be completed and included as "**Appendix E**" labeled "**Affidavits and Certification Forms**" to your SOQ:

- Drug-Free Workplace Certification (**Attachment C**);
- Non-Collusion Affidavit (**Attachment D**); and
- Consultant Declaration (**Attachment E**).

If your Firm does not comply with one (1) or more of District's policies, declare this and explain the reasons.

8.00 SELECTION CRITERIA

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

- Responsiveness to the RFQ: SOQ was clear, concise, and responsive.
- Firm Information: complete information regarding firm location, ownership, etc.
- Firm Services: demonstrates services offered are in alignment with District's need.
- Firm Experience / Approach / Methodology: outlines firm methodology, evidence of ability to prioritize project and begin job in a timely fashion, able to address appropriately functionality objectives of projects, proven experience in accuracy of firm's cost estimates, demonstrates adequate and relevant experience, community college and/or K-12 school district experience, experience with Division of the State Architect (DSA), proven experience in meeting schedules and deadlines.
- Budgets/Cost Estimates: proven experience in accuracy of firm's cost estimates and ability to maintain project budgets.
- Personnel and Sub-Consultants: evaluate team member experience, relevancy for project and scope, totality of team members including sub-consultants identified to work on project, has provided all team member resumes with appropriate information, project experience noted, licenses noted, qualifications noted.
- Billing Rates: has provided billing rates for team members and sub-consultants, has competitive rates in comparison to others, completed the Billing Rate Form.
- Regulatory Office(s) Experience: demonstrated relevant experience with required regulatory offices.
- Insurance: demonstrated compliance with District insurance requirements.
- Financials: Provided Confidential Financial Information (if requested).
- Forms: completed required forms including, but not limited to Non-Collusion Affidavit Form, Drug-Free Workplace Certification, and Consultant Declaration.
- Client Reference Checks: satisfaction of prior/current clients, professional reputation of the firm, past experience working with District (if deemed necessary to verify).

9.00 NOTIFICATION OF FIRMS & DEBRIEFING

At the conclusion of the selection process and pursuant to the Selection Process Schedule above, each Consultant will be notified as to whether or not it has been selected for inclusion in the District's Pool. The District does not conduct formal or informal post-selection debriefing with proposers.

10.00 PUBLIC RECORDS

Except for materials deemed Trade Secrets (as defined in California Civil Code §3426.1) and materials specifically marked "Confidential" or "Proprietary," all materials submitted in response to this RFQ are deemed property of the District and public records upon submission to the District. The foregoing notwithstanding, the District may reject for non-responsiveness the RFQ Response of a Consultant who indiscriminately notes that its RFQ Response or portions thereof are "Trade Secret," "Confidential" or "Proprietary" and exempt from disclosure as a public record.

The District is not liable or responsible for the disclosure of RFQ Responses, or portions thereof, deemed to be public records, including those exempt from disclosure if disclosure is required by

operation of law, or by an order of a court of competent jurisdiction, which occurs through inadvertence, mistake or negligence on the part of the District or its agents or representatives.

If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of an RFQ Response deemed exempt from disclosure hereunder, by submitting a response to this RFQ, each Respondent agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability including, without limitation, attorney's fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense of the District in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

END OF REQUEST FOR QUALIFICATIONS

Attachment A

CONSULTANT SERVICES AGREEMENT
(SAMPLE ONLY – ACTUAL AGREEMENT SUBJECT TO CHANGE)

This AGREEMENT is made and entered into this ____ day of _____ in the year 20____, by and between the **NORTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT**, hereinafter referred to as (“DISTRICT”), and <<NAME OF CONSULTANT>>, hereinafter referred to as “CONSULTANT”. The DISTRICT and the CONSULTANT are sometimes referred to herein as a “PARTY” and collectively as the “PARTIES”. This AGREEMENT is made with reference to the following facts:

WHEREAS, the DISTRICT requires services and/or advice of a highly specialized and technical nature in connection with certain financial, economic, accounting, consulting and/or administrative matters, and such services and advice are not available within the DISTRICT, and cannot be performed satisfactorily by DISTRICT employees; and

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

WHEREAS, CONSULTANT possesses the necessary knowledge, experience, and ability to perform services not available through DISTRICT personnel, and CONSULTANT is specially experienced and competent to provide to the DISTRICT certain specialized services and/or advice in one or more of the foregoing areas;

WHEREAS, DISTRICT desires to obtain the following specialized services and/or advice for <<DESCRIPTION OF SERVICES>> for the <<PROJECT>> hereinafter referred to as the “PROJECT”; and

WHEREAS, CONSULTANT has indicated its willingness and commitment to provide its specialized services and/or advice to the DISTRICT on the terms hereafter set forth in this AGREEMENT.

NOW, THEREFORE, the PARTIES hereto agree that the above recitals are true and correct, and further as follows:

ARTICLE I – SCOPE AND SERVICES AND RESPONSIBILITIES

1. Services. CONSULTANT shall provide to the DISTRICT the services based on the terms set forth herein, as well as those articulated in **EXHIBIT “A”** which is attached hereto and incorporated herein (collectively, “Services”). If there is a proposal or similar document attached or incorporated into this AGREEMENT, and there is a discrepancy, inconsistency, or other difference between the documents, the PARTIES agree that the terms of this AGREEMENT shall govern and be controlling over any of the terms contained within the CONSULTANT’s proposal or similar document.

2. Classification. To the extent it is determined under applicable law that CONSULTANT fails to meet the statutory prerequisites for classification as a professional operating under a personal services agreement, CONSULTANT resigns any and all rights and privileges derived from this AGREEMENT and any resulting relationship, which resignation is deemed accepted under such circumstances by the DISTRICT.

3. Contract Term. The term of this AGREEMENT shall be _____ through _____ (“Term”), in accordance with the schedule as stated in **EXHIBIT “A”**.

OR

This AGREEMENT shall commence on MONTH DAY, YEAR and shall terminate when **DSA Certification and project close-out has been achieved** (“Term”), in accordance with the schedule as stated in **EXHIBIT “A”**, unless terminated or otherwise canceled. The parties also agree should all services be completed by CONSULTANT and accepted, in writing by the DISTRICT, the AGREEMENT shall automatically terminate.

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

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

b. CONSULTANT, in providing the Services and in otherwise carrying out its obligations to the DISTRICT under this AGREEMENT, shall, at all times, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, including workers’ compensation and equal protection and non-discrimination laws.

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

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

6. CONSULTANT shall not change any of the key personnel listed in **EXHIBIT “A”** without prior written approval by the DISTRICT, unless said personnel cease to be employed by CONSULTANT. In either case, DISTRICT shall be allowed to interview and approve replacement personnel. CONSULTANT agrees that reassignment of any of the listed personnel during the AGREEMENT period shall only be with other professional personnel who have equivalent experience and shall require prior consultation and written approval by the DISTRICT. Any costs associated with reassignment of personnel shall be borne exclusively by CONSULTANT and CONSULTANT shall not charge the DISTRICT for the cost of training or “bringing up to speed” replacement personnel. If any designated lead or key person fails

to perform to the satisfaction of the DISTRICT, then upon written notice the CONSULTANT shall immediately remove that person from the PROJECT and provide a temporary replacement. CONSULTANT shall, within ten (10) workdays, provide a permanent replacement person acceptable to the DISTRICT. DISTRICT may condition its approval of replacement personnel upon a reasonable transition period wherein new personnel will learn the PROJECT and get “up to speed” at CONSULTANT’s cost.

7. Approved sub-consultants shall not be changed without the prior written consent of the DISTRICT. CONSULTANT shall promptly obtain written DISTRICT approval of any replacement or new sub-consultant working on this PROJECT. Nothing in this AGREEMENT shall create any contractual relation between the DISTRICT and any sub-consultant employed by the CONSULTANT under the terms of this AGREEMENT.

8. CONSULTANT represents that the CONSULTANT has no existing interest and will not acquire any interest, direct or indirect, which would create a conflict of interest in violation of any applicable laws, and that no person having any such interest shall be employed by CONSULTANT.

9. CONSULTANT shall coordinate and perform all Services set forth in the AGREEMENT through the DISTRICT’s authorized representative.

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

11. DIR Contractor Registration. This PROJECT is a public works project as defined in Labor Code section 1720. To the extent applicable, the CONSULTANT and all subcontractors performing the work for the PROJECT must comply with the Labor Code sections 1725.5 and 1771.1 and must be properly and currently registered with the California Department of Industrial Relations (“DIR”) and qualified to perform public works pursuant to Labor Code section 1725.5 throughout the duration of this AGREEMENT. Failure to comply with these requirements shall be deemed a material breach of this AGREEMENT and grounds for termination for cause. To the extent applicable, the CONSULTANT and all subcontractors shall furnish certified payroll records as required pursuant Labor Code section 1776 directly to the Labor Commissioner in accordance with Labor Code section 1771.4 on at least on a monthly basis (or more frequently if required by the DISTRICT or the Labor Commissioner) and in a format prescribed by the Labor Commissioner. Monitoring and enforcement of the prevailing wage laws and related requirements will be performed by the Labor Commissioner/ Department of Labor Standards Enforcement (DLSE). **OR REMOVE IF NOT APPLICABLE**

ARTICLE II – ADDITIONAL CONSULTANT SERVICES

1. CONSULTANT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the CONSULTANT’s control. CONSULTANT shall obtain written authorization from the DISTRICT before rendering such services. The DISTRICT may require CONSULTANT to perform additional services which are, in the DISTRICT’s discretion, necessary. Compensation for such services shall be negotiated and approved in writing by the DISTRICT. Such services shall include:

- a. Making material revisions in reports or other documents when such revisions are required by the enactment or revision of laws, rules or regulations subsequent to the preparation and completion of such documents.
- b. Preparing reports and other documentation and supporting data, and providing other services in connection with PROJECT modifications required by causes beyond the control of the CONSULTANT which are not the result of the direct or indirect negligence, errors or omissions on the part of CONSULTANT;
- c. If the DISTRICT requests additional shifts to complete the Services articulated in **EXHIBIT "A"** where the requests for additional shifts does not arise from the direct or indirect negligence, errors or omissions on the part of CONSULTANT and the CONSULTANT's compensation is expressly conditioned on the lack of fault of the CONSULTANT;
- d. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with the generally accepted practice in the CONSULTANT's industry.

ARTICLE III – COMPENSATION TO THE CONSULTANT

1. Basic Services. CONSULTANT agrees to perform Services set forth in this AGREEMENT and DISTRICT agrees to pay CONSULTANT for such Services in accordance with **EXHIBIT "A"**. Payment under this Article includes the cost of the Services necessary as set forth in **EXHIBIT "A"**.
2. Additional Services. Compensation for Additional Services shall be dependent upon CONSULTANT's compliance with the provisions outlined in Article II and shall be calculated in accordance with the rates set forth in **EXHIBIT "A"**.
3. Reimbursable CONSULTANT Costs/Expenses. DISTRICT recognizes that certain costs and expenses associated with the Services performed are reimbursable to the CONSULTANT. Provided that the CONSULTANT obtains the DISTRICT's prior written approval, costs and expenses will be reimbursed to the CONSULTANT in accordance with this Section. The DISTRICT's prior written authorization is an express condition precedent to any reimbursement to the CONSULTANT of such costs and expenses, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by the DISTRICT and calculated in accordance with the rates set forth in **EXHIBIT "A"**. The CONSULTANT's mileage and travel time shall not be considered as an allowable reimbursable expense. The descriptive categories of expenses that may be considered for reimbursement are as follows, and any other reimbursable expenses must be approved in writing by the DISTRICT:
 - a. Approved reproduction of reports and/or other documents in excess of the copies required by this AGREEMENT;
 - b. Fees advanced for securing approval of authorities in connection with the Services rendered pursuant to this AGREEMENT;
 - c. Cost of sub-consultants hired by CONSULTANT with prior approval of DISTRICT; or
 - d. Other DISTRICT requested items as requested in writing.
4. Invoices. CONSULTANT shall submit one (1) invoice monthly to the DISTRICT for the fees incurred during the billing period and reimbursable expenses (if any). Invoices for fees must reflect the date of the Service, identify the individual performing the Service, state the hours worked and rate

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

OR

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

5. Except as expressly provided above, CONSULTANT agrees that no other compensation, fringe benefits, or other remuneration is due to CONSULTANT by the DISTRICT for Services rendered under this AGREEMENT. CONSULTANT shall not apply for or receive statutory benefits available to employees of the DISTRICT because CONSULTANT is not an employee of the DISTRICT; rather, CONSULTANT is operating under a personal services agreement pursuant to Education Code section 88003.1(b)(2) and has only the rights defined by this AGREEMENT.

6. District's Right to Withhold. The DISTRICT may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary to protect the DISTRICT from loss, including costs and attorneys' fees, on account of: 1) defective or deficient work product not remedied; 2) failure of the CONSULTANT to make payments properly to its employees or sub-consultants; 3) failure of CONSULTANT to perform any Services in a timely manner causing delay or disruption to the PROJECT schedule; or 4) any amounts equal to the DISTRICT's costs caused by the CONSULTANT's errors or omissions, willful or reckless misconduct, or other breach of this AGREEMENT.

ARTICLE IV – TERMINATION

1. DISTRICT's Termination of the AGREEMENT for Cause/ Default. The DISTRICT may terminate this AGREEMENT upon seven (7) days' advance written notice to the CONSULTANT if there is a default by the CONSULTANT in its performance of a material obligation hereunder and such default in performance is not caused by the DISTRICT. Such termination shall be deemed effective the seventh

(7th) day following the date of the written termination notice, unless during such seven (7) day period, the CONSULTANT shall commence to cure its default(s) and diligently thereafter prosecute such cure to completion to the DISTRICT's reasonable satisfaction. In addition to the DISTRICT's right to terminate this AGREEMENT pursuant to the foregoing, the DISTRICT may terminate this AGREEMENT upon written notice to CONSULTANT if: (i) CONSULTANT becomes bankrupt or insolvent, which shall include, without limitation, a general assignment for the benefit of creditors or the filing by CONSULTANT or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for CONSULTANT or any of CONSULTANT's property on account of CONSULTANT's insolvency; or (ii) if CONSULTANT disregards applicable laws, codes, ordinances, rules or regulations. If DISTRICT exercises the right of termination hereunder, compensation due the CONSULTANT, if any, shall be based upon approved Basic Services, authorized Additional Services, and allowable expenses incurred or provided prior the effective date of the DISTRICT's termination of this AGREEMENT, reduced by the DISTRICT's prior payments of the CONSULTANT and any losses, damages, or other costs sustained by the DISTRICT arising out of the termination of this AGREEMENT or the cause(s) for termination of this AGREEMENT. Payment of the amount due the CONSULTANT, if any, shall be made by DISTRICT only after completion of all Services for the PROJECT. CONSULTANT shall remain responsible and liable to DISTRICT for all losses, damages, or other costs sustained by DISTRICT arising out of termination pursuant to the foregoing or otherwise arising out of CONSULTANT's default hereunder, to the extent that such losses, damages, or other costs exceed any amount due CONSULTANT hereunder for approved Basic Services, authorized Additional Services, and allowable expenses. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement consultant costs, shall be deducted from payments due the CONSULTANT. In the event the DISTRICT's termination for default is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with Article IV, Section 3, below, and CONSULTANT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense, or liability may be claimed, requested, or recovered by CONSULTANT.

2. CONSULTANT's Termination of the AGREEMENT for Cause. The CONSULTANT has the right to terminate this AGREEMENT if the DISTRICT fails to make payment of approved undisputed amounts due to CONSULTANT in accordance with this AGREEMENT. Such termination shall be effective upon fourteen (14) days' advance written notice to the CONSULTANT. CONSULTANT may invoice the DISTRICT for approved Basic Services and any authorized Additional Services as of the date of termination, and DISTRICT shall pay any undisputed and approved amounts for Services performed until the date of the CONSULTANT's notice of termination in accordance with this AGREEMENT, but not to exceed the CONSULTANT's fee set forth in this AGREEMENT.

3. DISTRICT's Termination of the AGREEMENT for Convenience/ Without Cause. This AGREEMENT may be terminated without cause by the DISTRICT upon seven (7) days' written notice to the CONSULTANT. In the event of a termination for convenience/ without cause, the DISTRICT shall pay the CONSULTANT for all approved Services performed and all authorized expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of notice of termination plus any sums due the CONSULTANT for authorized Additional Services. In ascertaining the Services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete reports and other documents, whether delivered to the DISTRICT or in the possession of the CONSULTANT. In addition, CONSULTANT will be reimbursed for reasonable termination costs through the payment of 3% beyond the sum due the CONSULTANT under this Section through 50% completion of the CONSULTANT's portion of the PROJECT and, if 50% completion is reached, payment of 3% of the unpaid balance of the contract to CONSULTANT as termination cost. This 3% payment is agreed to compensate the CONSULTANT for the unpaid profit CONSULTANT would

have made under the PROJECT on the date of termination and is legal consideration for entry into this termination for convenience clause.

4. DISTRICT's Right to Suspend or Abandon the PROJECT. The DISTRICT may, in its sole discretion, provide written notice to the CONSULTANT of the DISTRICT's intent to abandon the PROJECT or suspend all or any part of the PROJECT or the CONSULTANT's Services under this AGREEMENT. If the DISTRICT suspends the PROJECT or CONSULTANT's Services under this AGREEMENT for a period of one-hundred and twenty (120) consecutive days or more after the date of the written notice, and such suspension is not caused by the CONSULTANT's default or the acts or omissions of CONSULTANT or its consultants, upon lifting of such suspension, the CONSULTANT's fee may be adjusted to reflect verified actual costs and expenses incurred by CONSULTANT, if any, as a direct result of the suspension and resumption of the PROJECT or CONSULTANT's Services under this AGREEMENT. If the DISTRICT decides to not resume the PROJECT or permanently abandon the PROJECT, the AGREEMENT shall be deemed terminated for suspension/ abandonment as applicable. In the event of a termination based upon abandonment or suspension by DISTRICT, the DISTRICT shall pay the CONSULTANT for all approved Services performed and all authorized expenses incurred pursuant to this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of the abandonment, plus any sums due the CONSULTANT for Board approved Additional Services. In ascertaining the Services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the DISTRICT or in the possession of the CONSULTANT.

5. CONSULTANT's Obligations upon Termination. Upon the DISTRICT's exercise of the right of termination under Article VIII, Section 1, 3, or 4 above, the CONSULTANT shall take action as directed by the DISTRICT relative to its ongoing Services for the PROJECT. The CONSULTANT shall, within five (5) days of the effective termination, assemble and deliver to the DISTRICT all documents, reports, work product, instruments of service, and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the CONSULTANT under this AGREEMENT and in any manner related to the PROJECT. The CONSULTANT shall, within five (5) days of the effective termination, deliver the originals of all documents described in the preceding sentence, regardless of form or medium. The CONSULTANT may, at its sole cost and expense, make reproductions of the originals delivered to the DISTRICT for its records and files.

6. The PARTIES understand and agree that Article IV of this AGREEMENT shall govern all termination rights and procedures between the PARTIES. Any termination provision that is attached to this AGREEMENT as an Exhibit shall be void and unenforceable between the PARTIES.

ARTICLE V – DISPUTES

1. Mandatory Mediation.

a. A "Claim as referred to in this Article shall mean a dispute between the PARTIES regarding performance of any work related to this AGREEMENT or PROJECT, any interpretation of this AGREEMENT, payment or nonpayment for work performed or not performed, any dispute involving the terms or requirements of the PROJECT or this AGREEMENT where one PARTY's opinion or interpretation differs from that of the other PARTY. The PARTIES hereto agree prior to commencing any legal action relating to a Claim arising from this AGREEMENT or the PROJECT to submit the Claim to a mandatory good-faith mediation process. The PARTIES' expectations are that if a Claim is made by or arises from a third party (e.g., a contractor), that the third party will be a participant in mediation. The PARTIES agree that any statute of limitations applicable to any Claim shall be tolled for the period from the date a PARTY requests mediation

through fourteen (14) days after termination of the mediation, unless otherwise agreed to in writing by the PARTIES.

b. Except as set forth below, the PARTIES agree to refrain from filing, maintaining or prosecuting any action related to the Claim during the pendency of the mediation provided that the mediation must commence within thirty (30) days after a PARTY makes written demand to the other for mediation. The PARTIES may mutually agree to extend this 30-day time period. In no event shall mediation cause any delay in the progress or timely prosecution of any work on the PROJECT or any Services to be performed under this AGREEMENT.

c. The PARTIES shall participate in a minimum of one full-day mediation session before the mediation process may be declared unsuccessful and terminated by either PARTY. The mediation shall be conducted in accordance with the rules as the PARTIES agree upon, or in the absence of agreement, in accordance with the Construction Rules of JAMS ADR/Endispute. Evidence of anything said, any admissions made, and any documents prepared in the course of the mediation shall not be admissible in evidence or subject to discovery in any court action pursuant to Evidence Code sections 1152 and 1154.

d. The PARTIES shall mutually agree to the selection of a mediator who is an attorney that is experienced in public works construction claims. If the PARTIES are unable to agree upon a mediator, then the mediator shall be appointed by JAMS ADR/Endispute.

e. The mediation shall take place at a location within twenty (20) miles of the DISTRICT's administrative office. The mediator's fees and administrative fees, if any, shall be split equally between the PARTIES and each PARTY shall bear its own attorney's fees and costs.

f. If any PARTY commences a legal action without first attempting to resolve the Claim as required by this Article, that PARTY shall be in breach of this AGREEMENT and shall not be entitled to recover attorneys' fees that might have otherwise been recoverable.

2. Compliance with Government Code Section 900 et seq. The foregoing provisions relating to dispute resolution procedures notwithstanding, neither this AGREEMENT nor such provisions shall be deemed to waive, limit or modify any requirements under Government Code section 900 et seq. relating to the CONSULTANT's submission of claims to the DISTRICT.

3. Continuation of CONSULTANT Services. In the event of a claim or dispute, the PARTIES shall attempt to resolve the dispute in good faith as set forth above. Pending resolution of a claim or dispute, CONSULTANT agrees to continue the work diligently to completion. If the claim or dispute is not resolved, CONSULTANT agrees it will neither rescind the AGREEMENT nor stop the progress of the work, but CONSULTANT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute, after the PROJECT has been completed, and not before. The PARTIES may agree in writing to submit any dispute between the PARTIES to arbitration. The DISTRICT agrees to continue to pay the CONSULTANT any undisputed amounts pursuant to this AGREEMENT.

ARTICLE VI – ACCOUNTING RECORDS OF THE CONSULTANT

1. Records of the CONSULTANT's direct personnel and reimbursable expenses pertaining to the Services performed on this PROJECT and records of accounts between the DISTRICT and CONSULTANT shall be kept on a generally recognized accounting basis and shall be available to the DISTRICT or his authorized representative at mutually convenient times.

2. The DISTRICT (including the DISTRICT's appointed accountant or consultant, or the DISTRICT's legal counsel) retains the right to review and audit, and the reasonable right of access to

CONSULTANT's and any consultants' premises to review and audit the CONSULTANT's compliance with the provisions of this AGREEMENT ("DISTRICT's Audit Right"). The DISTRICT's Audit Right includes the right to inspect, photocopy, and to retain copies, outside of the CONSULTANT's premises, of any and all PROJECT-related records, documents and other information with appropriate safeguards, if such retention is deemed necessary by the DISTRICT in its sole discretion. The DISTRICT shall keep information confidential as required by applicable law.

3. The DISTRICT's Audit Right includes the right to examine any and all books, records, documents and any other evidence of procedures and practices that the DISTRICT determines are necessary to discover and verify that the CONSULTANT is in compliance with the requirements of this AGREEMENT.

4. If there is a claim for additional compensation or for Additional Services, the DISTRICT's Audit Right includes the right to examine books, records, documents, and any and all other evidence and accounting procedures and practices that the DISTRICT determines are necessary to discover and verify all direct and indirect costs, of whatever nature, which are claimed to have been incurred, or anticipated to be incurred.

5. The CONSULTANT shall maintain complete and accurate records for a minimum of seven (7) years and in accordance with generally accepted accounting practices in the industry. The CONSULTANT shall make available to the DISTRICT for review and audit, all PROJECT-related accounting records and documents, and any other financial data. Upon DISTRICT's request, the CONSULTANT shall submit exact duplicates of originals of all requested records to the DISTRICT.

6. The CONSULTANT shall include audit provisions in any and all of its subcontracts and shall ensure that this Article is binding upon all consultants.

7. The CONSULTANT shall comply with these provisions within fifteen (15) days of the DISTRICT's written request to review and audit any or all of CONSULTANT's PROJECT-related documents, records and information.

8. Pursuant to Government Code section 8546.7, if this AGREEMENT involves the expenditure of more than ten thousand dollars (\$10,000), the AGREEMENT shall be subject to the examination and audit of the State Auditor, at the request of the DISTRICT, or as part of any audit of the DISTRICT, for a period of three (3) years after final payment under the AGREEMENT.

ARTICLE VII – REPORTS AND/OR OTHER DOCUMENTS

The reports and/or other documents that are prepared, reproduced, maintained and/or managed by the CONSULTANT or CONSULTANT's consultants in accordance with this AGREEMENT (regardless of medium, format, etc.) shall be and remain the property of the DISTRICT (hereinafter "PROPERTY"). The DISTRICT may provide the CONSULTANT with a written request for the return of its PROPERTY at any time. Upon CONSULTANT's receipt of the DISTRICT's written request, CONSULTANT shall return the requested PROPERTY to the DISTRICT within five (5) calendar days. Failure to comply with any such written request shall be deemed a material breach of this AGREEMENT.

ARTICLE VIII – INDEMNITY & INSURANCE

1. For the purposes of this Article, the term, "Indemnified Parties" shall mean the DISTRICT, its agents, representatives, officers, consultants, employees, trustees and members, and the term, "Claim(s)" shall mean any and all actions, assessments, counts, citations, claims, costs, damages, demands, judgments,

liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, attorney's and consultants' fees and causes of action to property or persons, including, without any limitation whatsoever, personal injury and/or death.

2. To the fullest extent permitted by law and in accordance with California Civil Code section 2782.8, CONSULTANT agrees to indemnify and hold the DISTRICT harmless from all liability arising out of:

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

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

c. Professional Liability: If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, the CONSULTANT shall indemnify and hold the Indemnified Parties harmless from any Claims caused by any act, neglect, default, or omission of the CONSULTANT, or any person, firm, or corporation employed by the CONSULTANT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm, or corporation, including the Indemnified Parties, arising out of, or in any way connected with, the PROJECT, including injury or damage either on or off DISTRICT property; but not for any Claims caused by sole or active negligence, or willful misconduct of the Indemnified Parties. With regard to the CONSULTANT's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the Indemnified Parties, but rather to reimburse the Indemnified Parties for attorneys' fees and costs incurred by the Indemnified Parties in defending such actions or proceedings brought against the Indemnified Parties that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT.

d. [NOT USED]

e. The CONSULTANT's duty to indemnify and defend under this AGREEMENT shall apply during the Term of this AGREEMENT and shall survive any expiration or termination of this AGREEMENT until any such Claim(s) are barred by the applicable statute of limitations and is in addition to any other rights or remedies that the DISTRICT may have under the law or under this AGREEMENT.

f. The CONSULTANT's duty to defend shall begin upon the DISTRICT's notification to the CONSULTANT of a Claim. At that time, the CONSULTANT shall pay for that defense at its sole cost.

g. The PARTIES understand and agree that Article VIII, Sections 1 and 2 of this AGREEMENT shall be the sole indemnity, as defined by California Civil Code § 2772, between the DISTRICT and the CONSULTANT related to the PROJECT. Any other indemnity that is attached to this AGREEMENT as part of any Exhibit shall be void and unenforceable between the PARTIES.

h. Any attempt to limit the CONSULTANT's liability to the Indemnified Parties in any of the exhibits or attachments to this AGREEMENT shall be void and unenforceable between the PARTIES

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

a. Commercial General Liability Insurance (CGL) with a combined single limit of not less than One Million Dollars (\$1,000,000) each occurrence / Three Million Dollars (\$3,000,000) in the annual aggregate.

b. Commercial Automobile Liability Insurance with a combined single limit of not less than One Million Dollars (\$1,000,000) each accident and Three Million Dollars (\$3,000,000) aggregate, including:

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

c. Professional liability (Errors & Omissions) Insurance with a limit not less than One Million Dollars (\$1,000,000) each occurrence / Three Million Dollars (\$3,000,000) in the annual aggregate. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts any portion of CONSULTANT's duties, shall require CONSULTANT any such subcontractor to purchase and maintain insurance coverage as provided in this Section. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

d. Workers' Compensation Insurance as required by the state of California with a minimum of One Million Dollars (\$1,000,000) for Employer's Liability.

ARTICLE IX – MISCELLANEOUS

1. CONSULTANT, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONSULTANT understands and agrees that CONSULTANT and all of CONSULTANT's employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. CONSULTANT assumes the full responsibility for the acts and/or omissions of CONSULTANT's employees or agents as they relate to the Services to be provided under this AGREEMENT. CONSULTANT shall assume full responsibility for payment of any applicable prevailing wages and all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective CONSULTANT's employees.
2. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either the DISTRICT or CONSULTANT.
3. The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other PARTY to this AGREEMENT with respect to the terms of this AGREEMENT. CONSULTANT shall not assign this AGREEMENT.
4. This AGREEMENT shall be governed by the laws of the State of California.
5. This AGREEMENT shall not include or incorporate the terms of any general conditions, conditions, master agreement or any other boilerplate terms or form documents prepared by the CONSULTANT. The attachment of any such document to this AGREEMENT as **EXHIBIT "A"** shall not be interpreted or construed to incorporate such terms into this AGREEMENT unless the DISTRICT approves of such incorporation in a separate writing signed by the DISTRICT. Any reference to such boilerplate terms and conditions in the proposal or quote submitted by the CONSULTANT shall be null and void and have no effect upon this AGREEMENT. Proposals, quotes, statement of qualifications and other similar documents prepared by the CONSULTANT may be incorporated into this AGREEMENT as **EXHIBIT "A"** but such incorporation shall be strictly limited to those portions describing the CONSULTANT's scope of work, rate and price schedule and qualifications.
6. The PARTIES have had the opportunity to, and have to the extent each deemed appropriate, obtained legal counsel concerning the content and meaning of this AGREEMENT. Each of the PARTIES agrees and represents that no promise, inducement or agreement not herein expressed has been made to effectuate this AGREEMENT. This AGREEMENT represents the entire AGREEMENT between the DISTRICT and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the CONSULTANT.
7. The rule of construction that any ambiguities are to be resolved against the drafting PARTY shall not be employed in the interpretation of this AGREEMENT. It is expressly understood and agreed that the PARTIES to this AGREEMENT have participated equally, or have had equal opportunity to participate, in the drafting hereof.
8. Time is of the essence with respect to all provisions of this AGREEMENT.

9. If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each PARTY shall bear its own litigation costs and expenses, including reasonable attorney's fees.

10. All exhibits referenced herein and attached hereto shall be deemed incorporated into and made a part of this AGREEMENT by each reference as though fully set forth in each instance in the text hereof unless otherwise excluded by the terms of this AGREEMENT. In the event that the provisions of any Exhibit conflict with the terms of this AGREEMENT, the terms of this AGREEMENT shall control.

11. This AGREEMENT may be executed in any number of counterparts, each of which shall be deemed an original, and the counterparts shall constitute one and the same instrument, all of which shall be sufficient evidence of this AGREEMENT.

12. Confidentiality. The CONSULTANT shall not disclose or permit the disclosure of any confidential information, except to its agents, employees and other consultants who need such confidential information in order to properly perform their duties relative to this AGREEMENT.

13. Severability. If any portion of this AGREEMENT is held as a matter of law to be unenforceable, the remainder of this AGREEMENT shall be enforceable without such provisions.

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

To the DISTRICT:
North Orange County Community College District
Attn: Mireille Hernandez
1830 West Romneya Drive
Anaheim, CA 92801
Telephone: (714) 808-4848
Email: mhernandez@nocccd.edu

To the CONSULTANT:
<<Name of Contractor>>
Attn: <<Name>>
<< Address>>,
<<City, State, Zip>>
Telephone:
Email:

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

16. Profanity on any DISTRICT property is prohibited, including, but not limited to, racial, ethnic, or sexual slurs or comments which could be considered harassment.

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

18. Images. If applicable, the CONSULTANT is prohibited from capturing on any visual medium images of any property, logo, student, or employee of the DISTRICT, or any image that represents the DISTRICT without express written consent from the DISTRICT.

19. **Prevailing Wages.** If applicable and required, CONSULTANT shall pay and shall cause all subconsultants of every tier to pay, not less than the specified prevailing wage rates, to the extent applicable to all workers employed to perform work or Services under this AGREEMENT. CONSULTANT shall fully indemnify and defend the DISTRICT from any claims arising from CONSULTANT's failure to meet and prevailing wage requirements.

20. In accordance with California Education Code section 81655, this AGREEMENT is not a valid or enforceable obligation against the DISTRICT until approved or ratified by motion of the Governing Board of the DISTRICT duly passed and adopted.

21. **COVID-19.** CONSULTANT shall at all times comply with all federal, state, and local directives, ordinances, laws, health orders and regulations and DISTRICT guidelines including, but not limited to, OSHA and Cal-OSHA concerning COVID-19. This may require scheduling site visits by appointment only, the ability to conduct business meetings via online or the internet, wearing required face mask protection and maintain social distancing guidelines if attendance on site is necessary to conduct essential business related to Services described herein.

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

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

<<NAME OF CONSULTANT>>

**NORTH ORANGE COUNTY COMMUNITY
COLLEGE DISTRICT**

By_____

By_____

Print Name_____

Name: Mireille Hernandez

Title: Interim District Director, Purchasing

Title_____

Date_____

Date_____

Address_____

Phone_____

Tax ID#_____

Email_____

ATTACHMENT B

BILLING RATES AND SCHEDULE OF FEES FORM

Firm Name: _____

Include a separate form for each subconsultant

Do rates include travel charges?

☐ Yes☐ No

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

[illegible]

Attachment C

DRUG-FREE WORKPLACE CERTIFICATION

This Drug-Free Workplace Certification is required pursuant to Government Code Sections 8350, et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract and the contractor may be subject to debarment from future contracting, if the state agency determines that specified acts have occurred.

Pursuant to Government Code Section 8355, every person or organization awarded a contract from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

- a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;
- b) Establishing a drug free awareness program to inform employees about all of the following:
 - 1) The dangers of drug abuse in the workplace;
 - 2) The person's or organization's policy of maintaining a drug-free workplace;
 - 3) The availability of drug counseling, rehabilitation and employee-assistance programs; and
 - 4) The penalties that may be imposed upon employees for drug abuse violations; and
- c) Requiring that each employee engaged in the performance of the contract be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract, the employee agrees to abide by the terms of the statement.

I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.

I also understand that if the DISTRICT determines that I have either (a) made a false Certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract awarded herein is subject to suspension of payments, termination, or both. I further understand that, should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350, et seq.

I acknowledge that I am aware of the provisions of Government Code Section 8350, et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

NAME OF CONSULTANT

Signature

Print Name

Title

Date

Attachment D

NON-COLLUSION AFFIDAVIT

(Must be Notarized)

_____, being first duly sworn, deposes and says that he or she is of the party making the foregoing proposal that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham bid, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

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

Signature & Date

Printed Name & Title

Attachment E – CONSULTANT DECLARATION

Service Categories Prequalifying for: _____

Consultant (legal name of entity): _____

Address: _____

Phone: _____

Email: _____

Type of Firm: Individual ☐ Corporation ☐ Partnership ☐ Other (Specify) ☐

Tax I.D. No.: _____ Date of Business Formed: _____

Date Incorporated (if applicable): _____ State of Incorporation: _____

OWNERS, OFFICERS AND PRINCIPALS			
<i>Name</i>	<i>Years with Firm</i>	<i>Position</i>	<i>% of Ownership</i>

Consultant has attached a Certificate of Insurance demonstrating a valid insurance policy with policy limit of at least \$1,000,000 per occurrence and \$3,000,000 aggregate or has attached a letter from their insurer that such policy limits will be secured in the event that the Consultant is awarded a project.

YES _____ NO _____

Consultant has attached verification of a current workers' compensation insurance policy as required by the Labor Code or is legally self-insured pursuant Labor Code Section 3700 et. seq.

YES _____ NO _____

If answering 'yes' to any of the below listed questions, explain on a separate signed page

Has there been any change in the control of the firm in the last five years?

YES _____ NO _____

Have you/the Firm declared bankruptcy or been placed in receivership within the past ten years?

YES _____ NO _____

Are any of the Firm's owners, officers, and/or principals connected with any other companies as subsidiary, parent, or affiliate?

YES _____ NO _____

Has the Firm been involved in any litigation, arbitration, claim, or dispute of any kind with a public agency in the past ten years?

YES _____ NO _____

Has the Firm or any owner, officer or principal of the Firm ever been found guilty of violating any federal, state or local law, rule or regulation regarding a contract?

YES _____ NO _____

Has the Firm ever failed to complete a contract within the authorized contract time?

YES _____ NO _____

Has the Firm received any notices threatening termination?

YES _____ NO _____