



**KERN COMMUNITY COLLEGE DISTRICT
2100 CHESTER AVENUE
BAKERSFIELD, CALIFORNIA 93301**

REQUEST FOR QUALIFICATIONS (RFQ)

FOR

**COMMISSIONING AUTHORITY SERVICES
FOR VARIOUS DISTRICTWIDE PROJECTS**

Issue Date: January 24, 2019
Response Due Date/Time: February 19, 2019, 2:00 p.m.

I. GENERAL

The Kern Community College District (“Owner”) is issuing this “Request For Qualifications” (“RFQ”) to prospective firms (“Proposers”) interested in submitting Statements of Qualifications to provide Commissioning Authority services (“Commissioning Authority”) for potential district-wide project(s) in accordance with its Construction Planning, Scheduled Maintenance Planning, and Hazardous Materials Planning that are not under construction as of the issuing date of this RFQ (“Project(s)”). Owner intends to select one or more qualified and properly licensed firms (“pool”) to provide the services identified herein, on an as-needed basis. Services for Project(s), in whole or in part, will be selected by Owner at any time during a period of four (4) years commencing on or around April 15, 2019 through March 31, 2023 (the “Term”). By process of this RFQ, Owner will assess the qualifications and abilities of the firm and personnel submitting statements of qualifications to meet Owner’s needs for the Project(s).

II. PROJECT INFORMATION

- A. Project Description: The Project(s) may include, without limitation, development, new construction, additions/renovations, re-construction and modernization, and/or expansion of Owner’s community college school site(s) and/or other academic and non-academic facilities and may be subject to funding. If funding is not available, the Project(s) will be placed on hold until funding becomes available. Consultant may be assigned any portion, or all, of one or more of the Owner’s projects and/or specific Commissioning Authority services, in Owner’s sole discretion, pursuant to an executed Independent Consultant Agreement, a copy of which is attached hereto as **Attachment “A”**. Notwithstanding the foregoing, nothing contained herein obligates Owner to assign any project to a Consultant.
- B. Governing Code: The governing codes are the applicable codes of the State of California, as amended, including but not limited to education code, public contract codes, building codes, and health and safety codes.
- C. Budget: The Project(s) will be established within general cost figures set by Owner and guidelines established by the California Community Colleges Chancellor’s Office (“CCCCO”).
- D. Project Duration: The work is to be completed on or before a date to be determined by Owner.

III. GENERAL SCOPE OF CONSULTANT SERVICES

- A. Services to be rendered by Commissioning Authority to Owner will be specifically assigned by Owner pursuant to an executed Independent Consultant Agreement, a sample of which is attached hereto as **Attachment “A”** and according to Owner’s best interest and applicable Owner’s policies and procedures utilizing the applicable Commissioning Authority’s qualifications, in Owner’s sole discretion. Moreover, Commissioning Authority may be assigned any portion, or all of one, or more of the Project(s), in Owner’s sole discretion, at any time during the Term. Notwithstanding the foregoing, nothing contained herein obligates Owner to assign any project or service to Commissioning Authority. Owner’s Project(s) and scope of services may include, without limitation:

1. For designated new HVAC, electrical, piping, security, voice data, fire alarm and access systems provide commissioning services, including development of a commissioning plan; review equipment submittals; prepare, implement and witness functional testing, start-up and functional acceptance tests procedures; implement LEED-compliant requirements; compile and review O&M manuals; staff training processes and develop final Commissioning Manual.
2. Commissioning Authority shall utilize as required, the PMIS (Program Management Information Systems) that have been established for the KCCD Bond Program. Access to and training for the PMIS will be provided at no charge to the Commissioning Authority.

IV. STATEMENT OF QUALIFICATIONS CONTENT REQUIREMENTS

In order to evaluate the prospective Commissioning Authority's qualifications, submittals are requested to be prepared in the outline format. Brevity and clarity in all presentations are requested. For ease in review and to facilitate evaluation, the proposals submitted for this RFQ should be organized and presented in the order requested as follows:

- A. Cover Page: Indicate the name of the Commissioning Authority and RFQ title.
- B. Cover Letter of Interest: Provide a cover letter signed by the Commissioning Authority's principal that includes the Commissioning Authority's understanding of the work to be accomplished, and a brief general statement confirming the Commissioning Authority's ability to complete the Project(s).
- C. Organizational Information: Provide specific identification and organization information concerning the firm in this section. If two or more firms are involved in a joint venture in response to this RFQ, information concerning the working relationship between the firms, i.e., prime contractor/subcontractors must be provided.
- D. Qualification and Experience: Submit with this RFQ full and complete description of qualifications, education, special training, certifications, experience with community college systems and projects, and a list of projects completed with description of type of project, scope of work, and percentage of budget to actual cost ratio on projects completed. Include at least three (3) professional references for contracted jobs performed that relates to the types of work required by Owner hereunder.
- E. Fee Proposal: Fees will be based on fully loaded hourly billing rates. The total fees paid to any selected Commissioning firm will be those fees as authorized by Independent Contract Agreement. Owner reserves the right, in its sole discretion, to negotiate with Commissioning Authority the contract pricing for Project(s).
- F. Insurance Requirements: The Commissioning Authority selected shall furnish to Owner, prior to the commencement of work, an underwriter's certificate of insurance reflecting not less than the following limits:
 1. Workers' Compensation as required by law;

2. \$2 Million per occurrence for Comprehensive General Liability; and
3. \$1 Million per occurrence for Automobile Liability.

All insurance shall be issued by a company or companies listed in the current "A.M. Best Company's Key Rating Guide" publication with a minimum of an A-, V rating. Owner, its officers, Agents and employees shall be named as additional insureds on the General Liability policy. Any deviations from the requisite policy amounts and ratings must be approved by Owner.

V. STATEMENT OF QUALIFICATIONS SUBMITTAL PROCESS

Requests for debriefings will not be considered. Owner will not provide submittal information by either FAX or overnight-type mail service. Statement of Qualifications ("SOQ") shall be received by Owner, at the address stated below, on or before the date and time stated on the face sheet of this RFQ. **No oral, e-mail, telephonic or facsimile SOQ will be considered.**

The submission of a SOQ shall be an indication that the proposer has investigated and satisfied itself as to the conditions to be encountered, the character, quality and scope of work to be performed, and the requirements of Owner.

The SOQ shall be enclosed in a sealed container upon which shall be written the title of the SOQ and the name and address of the proposer. All signatures shall be in longhand, and shall be free of interlineations, alterations or erasures. Each proposer shall furnish Owner's administrative office with its business street address. Any communications directed either to the address given, or to the address listed on the sealed proposal container and deposited in the U.S. Postal Service by Certified Mail, shall constitute a legal service upon the proposer.

Addenda issued by Owner interpreting or changing any of the items in this RFQ, including all modifications to it, shall be responded to and incorporated in the SOQ. The proposer shall sign and date the Addenda Cover Sheet and submit them with its SOQ.

All SOQs received by Owner will be considered a "Public Record" as defined in Section 6252 of the California Government code and shall be open to public inspection, except to the extent the proposer designates trade secrets or other proprietary material to be confidential. Any documentation which the proposer believes to be a trade secret must be provided to Owner in a separate envelope or binder and must be clearly marked as a trade secret. Owner will endeavor to restrict distribution of materials and analysis of the proposals. Proposers are cautioned that materials designated as trade secrets may nevertheless be subject to disclosure and Owner shall in no way be liable or responsible for any such disclosure. Proposers are advised that Owner does not wish to receive material designated as trade secrets and requests that proposers not supply trade secrets unless absolutely necessary. The Proposer's qualification package, and any other supporting materials submitted to Owner in response to the request, will not be returned and will become the property of Owner unless portions of the materials submitted are designated as proprietary at the time of submittal, and are specifically requested to be returned.

The individual or official of the firm who has the power to bind the firm contractually must sign the SOQ. The SOQ preparation and associated direct costs are the sole responsibility of the Proposer and will not be reimbursed by the District.

Submittals shall not contain more than thirty (30) pages single-sided or fifteen (15) pages double sided, excluding front, back covers and tabs. Submittals containing more than the stated page limitation will not be considered. Interested firms shall submit five one (1) original and five (5) copies of the requested information and an electronic pdf on a **thumb drive** in a sealed and marked envelope to the address listed below, as follows:

“RESPONSE TO REQUEST FOR QUALIFICATIONS: Commissioning Authority Services”

Deliver All Proposals To:

Ralph Burnette, Contracts Administrator
 Bakersfield College, Measure J Program Management Office
 1801 Panorama Drive, Bakersfield, CA 93305

VI. SELECTION PROCESS AND CRITERIA

The selection process is designed to ensure that the Commissioning Authority’s services are engaged on the basis of demonstrated competence and qualifications for the type of services to be performed and at fair and reasonable prices for Owner. All statements received by the specified deadline will be reviewed by Owner for content, fee, related experience and professional qualifications. Owner reserves the right to reject any and all Statement of Qualifications and to waive informalities and minor irregularities in any Statement of Qualifications received. Owner reserves the right to select the statements which, in its sole judgment, best meet the needs of Owner. All statements will be subjectively evaluated on the following criteria:

The District reserves the right to reject any and all SOQs, to amend the RFQ and the RFQ process, and to discontinue or re-open the process at any time.

The SOQs will be evaluated based on each firm’s qualification and relevant experience with similar work. The evaluation and selection criteria are as follows:

Criteria	Points
Project Team Expertise	20
Statement of Services	10
Reference Evaluation	15
Consultant’s Prior Relevant Experience	20
Hourly Rates	30
Total	100

By submitting a Statement of Qualifications in response to this solicitation, the submitting firm(s) specifically represents that it has read the Independent Consultant Agreement, “Agreement”, which follows as part of this RFQ, and that, if selected, agrees to execute that form of Agreement without modifications.

At the election of Owner, in its sole discretion, a short-list of the qualifying firm’s may be generated, and Owner may invite the short-listed firms to make an oral presentation to the evaluation committee before reaching a final selection. After review of the statements, and receipt of presentations, if elected by Owner, the firm(s) deemed to best meet the needs of Owner will be contacted. Upon final

selection, the Agreement for Commissioning Authority Services, a sample of which is attached hereto, will be processed by Owner for award of contract.

VII. CONDITIONS TO AWARD

- A. Right to Delay/Withdraw/Cancel: Owner reserves the right to delay the selection process, withdraw the RFQ, and/or cancel the Project(s).
- B. No Obligation to Assign: In instances where more than a single Project is involved, assignment by Owner of a Commissioning Authority to render services on one does not mandate or obligate Owner in any way to assign the same Commissioning Authority for each of the enumerated Projects. In such instance, Owner reserves the right to assign Project(s) as it deems suitable and in the best interest of the District.
- C. No Obligation to Pay: This solicitation does not commit Owner to pay any costs in the preparation or presentation of a submittal.

VIII. PROHIBITED ACTIVITY

- A. Restricted Contact: Neither the proposing Commissioning Authority, nor its Agents, officers, employees or assigns, shall make any personal contact with any member of Owner’s Board of Trustees prior to Owner’s Board of Trustees’ selection and award of a contract(s) for this work.
- B. Conflict of Interest: Proposing Commissioning Authority’s shall have read and shall be aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relative to conflict of interest of public officers and employees. No officer or employee of Owner or member of its governing body shall have any pecuniary interest direct or indirect, in the resulting Agreement or the proceeds thereof.

IX. QUESTIONS

Any questions or clarifications concerning this Request for Qualifications, should be submitted by 4:00 PM on February 12, 2019 to:

Ralph Burnette
Contracts Administrator
E-mail: Ralph.Burnette@parsons.com
Phone: 661-912-5944



Facilities Planning, Design and Construction Program
2100 Chester Avenue, Bakersfield, CA 93301 (661) 336-5174

Attachment A

INDEPENDENT CONSULTANT AGREEMENT
For Professional Services

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the ___ day of ___, 20__ by and between the Kern Community College District, 2100 Chester Avenue, Bakersfield, California 93301 ("District") and ___, located at ___ ("Consultant"), (together, "Parties").

NOW, THEREFORE, the Parties agree as follows:

- 1. Services. The Consultant shall provide Commissioning Authority services for the ___ (Project) as more fully described in Exhibit "A" Proposal, dated [Date] provided to the District from Consultant, and is attached hereto and incorporated herein by this reference ("Services" or "Work").
2. Term. Consultant shall commence providing services under this Agreement on ___, 20__ and will diligently perform as required and complete performance by ___, 20__.
3. Submittal of Documents. The Consultant shall not commence the Work under this Contract until the Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

- X Signed Agreement
X Workers' Compensation Certification
N/A Fingerprinting/Criminal Background Investigation Certification
X Insurance Certificates and Endorsements
X W-9 Form

Consultant agrees to submit any other documentation as may be required pursuant to this Agreement applicable to the scope of services for the Project(s) listed herein.

- 4. Compensation. As full consideration for the satisfactory completion of the services required pursuant to this Agreement, District agrees to pay the Consultant a total amount not to exceed \$ ___. District shall pay Consultant according to the following terms and conditions:
4.1. Payment for the Work shall be made for all undisputed amounts in monthly installment payments within thirty (30) days after the Consultant submits an invoice to the District for Work actually completed and after the District's written approval of the Work performed, or the portion of the Work performed for which payment is to be made.
4.2. Consultant shall prepare a separate invoice for each school site, if Consultant works at more than one site. The itemized invoice shall reflect the hours spent by the Consultant in performing its Services pursuant to this Agreement.
4.3. All payments to Consultant hereunder shall be issued pursuant to a processed and executed Purchase Order and comply with the following important instructions, as applicable, to the scope of services for the Project(s):
4.3.1. Accept no order as valid except on this form;
4.3.2. All labor, equipment and materials shall be in accordance with the latest Federal, State and Local codes, rules and regulations. Nothing in the purchase order is to be construed to permit work, furnish equipment

- or materials, not conforming to these laws;
- 4.3.3. Transportation charges must be prepaid and shown on the invoice. If quoted FOB shipping point, enclose original receipted freight bill with invoice. **Shipments are to be made to the Ship Prepaid To" address of the Kern Community College District address listed herein;**
 - 4.3.4. A delivery slip must accompany each shipment;
 - 4.3.5. There must be a separate invoice for each order;
 - 4.3.6. Invoices for merchandise must be itemized, stating quantity, price and amounts of each item. Invoices for repairs must be itemized as to material and time, and rate of labor.
 - 4.3.7. **Invoice To:** Kern Community College District, Attn: Facilities Department, 2100 Chester Avenue, Bakersfield, CA 93301, (661) 336-5180.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except as follows:
- 5.1. Not applicable.
6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
7. **Labor Compliance Program.** The Consultant shall coordinate with District personnel and/or its designated representatives as may be requested and desirable, including with other professionals employed by the District for the design, coordination or management of other work related to the Project. This shall include, without limitation, coordination with the persons responsible for operation of the District's Labor Compliance Program. If the Consultant employs subcontractor(s), the Consultant shall ensure that its contract(s) with its subcontractor(s) include language notifying the subcontractor(s) of the District's Labor Compliance Program, if any.
8. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows:
- 8.1. Not applicable.
9. **Performance of Services.**
- 9.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.
 - 9.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 9.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 9.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.
10. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly

original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.

11. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
12. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

13. **Termination.**

- 13.1. **Without Cause By District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by the Consultant or no later than three days after the day of mailing, whichever is sooner.
- 13.2. **Without Cause By Consultant.** Consultant may, upon thirty (30) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Consultant for services satisfactorily rendered to the date of termination. Written notice by Consultant shall be sufficient to stop further performance of services to District. Consultant acknowledges that this thirty (30) day notice period is acceptable so that the District can attempt to procure the Services from another source.
- 13.3. **With Cause By District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
 - 13.3.1. material violation of this Agreement by the Consultant; or
 - 13.3.2. any act by Consultant exposing the District to liability to others for personal injury or property damage; or
 - 13.3.3. Consultant is adjudged a bankrupt, Consultant makes a general assignment for the benefit of creditors or a receiver is appointed on account of Consultant's insolvency.

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

14. **Indemnification.** To the furthest extent permitted by California law, Consultant shall defend hold harmless and indemnify the District (and its officers, employees, trustees, agents, successors and assigns) against all claims, suits, expenses (including reasonable attorney's fees), losses, penalties, fines, costs and liability whether in contract, tort or strict liability (including but not limited to personal injury, death at any time and property damage) arising out of or made necessary by Consultant's performance of this Agreement or breach of its terms.

15. **Insurance.**

- 15.1. The Consultant shall procure and maintain in effect during the life of this Agreement the following policies of insurance issued by an insurance company rated not less than "A-, VI" in Best Insurance Rating Guide and

admitted to transact insurance business in California.

- 15.1.1. **Commercial General Liability.** Commercial General Liability insurance (including contractual, products and completed operations coverages, bodily injury and property damage liability insurance) with single combined limits of not less than \$1,000,000 per occurrence;
- 15.1.2. **Automobile Liability Insurance.** Commercial Any Auto Automobile Liability insurance for "any auto" with combined single limits of liability of not less than \$1,000,000 per occurrence;
- 15.1.3. **Professional Liability Insurance (Errors and Omissions).** Professional Liability Insurance (Errors and Omissions) with a limit of liability of not less than \$1,000,000 per occurrence; and
- 15.1.4. **Workers' Compensation Insurance.** Workers' Compensation Insurance as required by law.

Consultant's policy shall contain an endorsement naming the District as an additional insured insofar as this Agreement is concerned, and provide that written notice shall be given to the District at least 30 days prior to cancellation or material change in the form of the policy or reduction in coverage.

Consultant shall furnish the District with a certificate of insurance containing the endorsements required under this section, and the District shall have the right to inspect Consultant's original insurance policies upon request. Upon notification of receipt of a notice of cancellation, change or reduction in coverage, Consultant shall immediately file with the District a certified copy of the required new or renewal policy and certificates for such policy.

Nothing in this section concerning minimum insurance requirements shall reduce a party's liabilities or obligations under the indemnification provisions of this Agreement.

- 15.2. **Proof of Carriage of Insurance.** The Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:
 - 15.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
 - 15.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
 - 15.2.3. An endorsement stating that the District and the State and their agents, Program Manager, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District.
 - 15.2.4. All policies except the Professional Liability Policy shall be written on an occurrence form.
- 15.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

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

17. **Compliance With Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Consultant observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be

terminated effective upon Consultant's receipt of a written termination notice from the District. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

18. **Certificates/Permits/Licenses.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of Services pursuant to this Agreement.
19. **Employment With Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
20. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
21. ~~**Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services.~~
22. **No Rights In Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
23. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate the Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
 - 23.1. Requesting that District employee(s) evaluate the Consultant and the Consultant's employees and subcontractors and each of their performance.
 - 23.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
24. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
25. **Confidentiality.** The Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
26. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

District:

Kern Community College District
2100 Chester Avenue
Bakersfield, CA 93301
ATTN: Associate Vice Chancellor of Construction
& Facilities Planning

Consultant:

ATTN: _____

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by

overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

- 27. Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
- 28. California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District’s administrative offices are located.
- 29. Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 30. Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 31. Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
- 32. Attorney Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney’s fees.
- 33. Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
- 34. Calculation of Time.** For the purposes of this Agreement, “days” refers to calendar days unless otherwise specified.
- 35. Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
- 36. Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
- 37. Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

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

Dated: _____, 20__

Dated: _____, 20__

Kern Community College District

By: _____

By: _____

Print Name: Deborah A. Martin

Print Name: _____

Print Title: Chief Financial Officer

Print Title: _____

Information regarding Consultant:

Consultant: _____

License No.: _____

Address: _____

Telephone: _____

Facsimile: _____

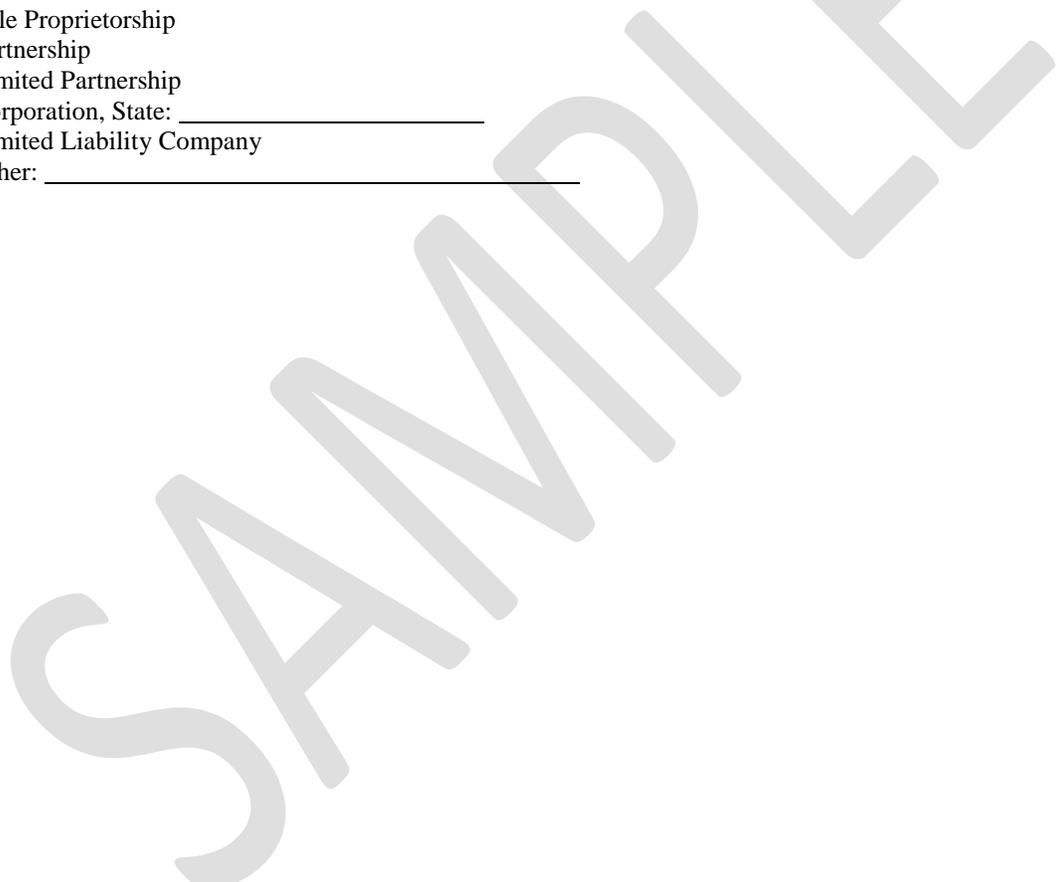
E-Mail: _____

Type of Business Entity:

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

Employer Identification and/or Social Security Number

NOTE: Federal Code of Regulations sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires your federal tax identification number or Social Security number, whichever is applicable.



WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

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

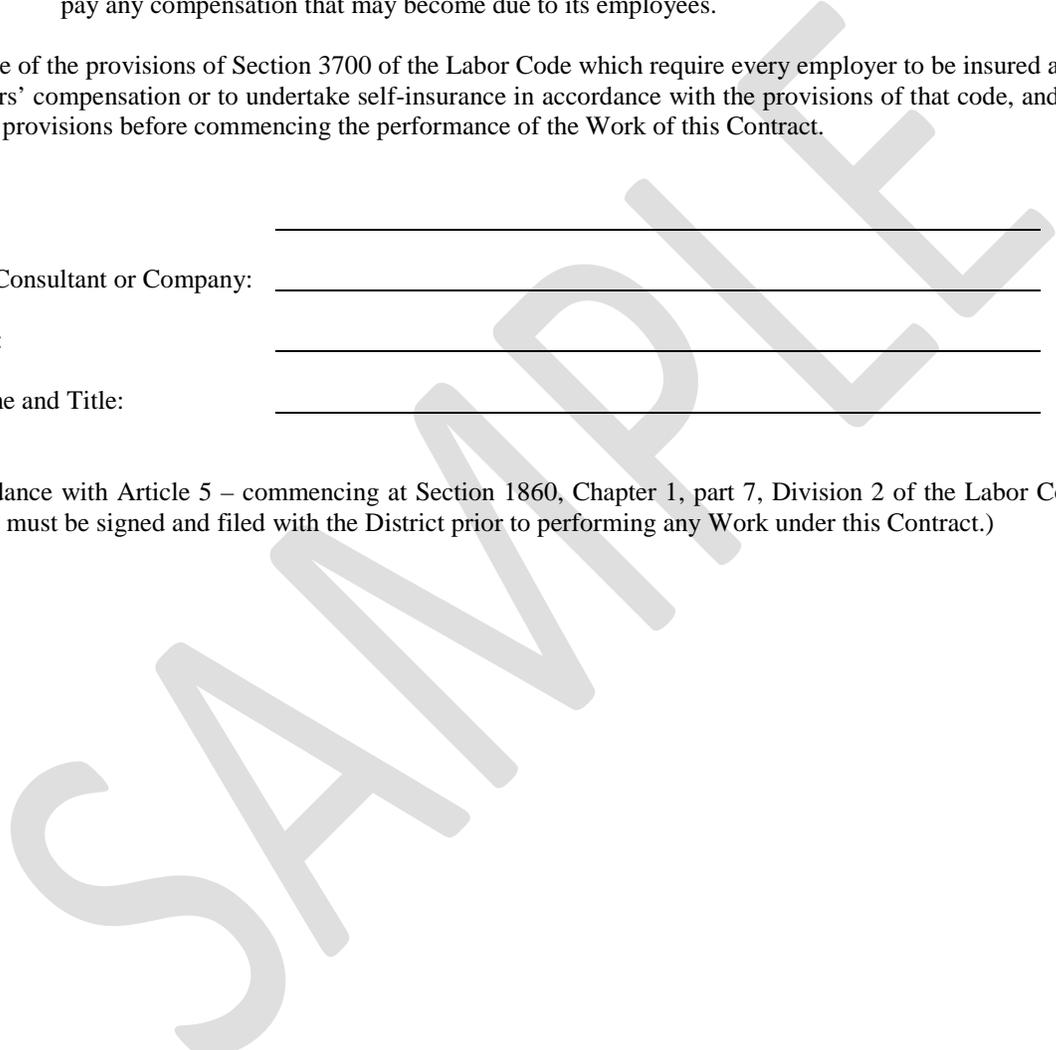
Date: _____

Name of Consultant or Company: _____

Signature: _____

Print Name and Title: _____

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



FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION

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

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

Date: _____
District Representative’s Name and Title: _____
Signature: _____

The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant’s services under this Agreement and Consultant certifies its compliance with these provisions as follows: *“Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant’s employees, subcontractors, agents, and subcontractors’ employees or agents (“Employees”) regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122. 1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto.”*

Consultant’s services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:

- _____ The installation of a physical barrier at the worksite to limit contact with pupils.
- _____ Continual supervision and monitoring of all Consultant’s on-site employees of Consultant by an employee of Consultant, _____, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.
- _____ Surveillance of Employees by District personnel. **[TO BE COMPLETED BY AUTHORIZED DISTRICT EMPLOYEE ONLY.]**

Date: _____
District Representative’s Name and Title: _____
Signature: _____

[MUST BE COMPLETED BY CONSULTANT’S AUTHORIZED REPRESENTATIVE.] I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

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

EXHIBIT "A"
DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT

Consultant's Proposal is made part of this Agreement, as is attached hereto.

SAMPLE