



MEMORANDUM

TO: Independent Citizens Oversight Committee (ICOC) Members

FROM: Joanne Pilgrim, Facilities Contract Supervisor

DATE: October 28, 2010

SUBJECT: Agreement with Colbi Technologies, Inc., No. PS-90-520-02

Pursuant to the above-referenced Agreement, the following is submitted for review and information purposes:

1. This Agreement was approved by the district's Governing Board on December 15, 2009 for a term commencing on December 16, 2009, and terminating on December 15, 2010, with an option to extend up to two years at District's election.
2. The value of the Agreement, as awarded, was for a maximum total expenditure of \$87,500 during the term of the Agreement. The contract was funded by Property Management funds.
3. District staff recommends that the Agreement be extended for an additional one-year term with an increase of \$87,500 to cover anticipated expenses during the 2010-2011 term.
4. Colbi Technologies, Inc. has provided a proposal to the ICOC in support of the additional year and estimated funds to be expended.
5. Pending approval of an additional one-year term by the ICOC, a proposed Amendment incorporating the new terms and conditions will be submitted to the district's Board for approval at its December 15, 2010 meeting.

To date, the following amounts have been billed to the district for services provided by Colbi Technologies:

• January 2010	Period Ending 01/31/10:	\$4,860.00	(30.00 hrs)
• February 2010	Period Ending 02/28/10:	\$5,692.50	(36.00 hrs)
• March 2010	Period Ending 03/31/10:	\$9,815.85	(66.99 hrs)
• April 2010	Period Ending 04/30/10:	\$5,628.75	(43.25 hrs)

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• May 2010	Period Ending 05/31/10:	\$6,078.75	(38.75 hrs)
• June 2010	Period Ending 06/30/10:	\$8,568.75	(58.75 hrs)
• July 2010	Period Ending 07/31/10:	\$7,856.25	(47.75 hrs)
• August 2010	Period Ending 08/31/10:	\$6,543.75	(40.75 hrs)

TOTAL: \$55,044.60 (362.24 hrs)

Colbi Technologies' monthly burn rate on behalf of the ICOC averaged 45 hrs @ \$151.96 = \$6,838.20.

The August 2010 billing also included \$6,678.61 for printing expenses. The total invoice amount is \$13,222.36

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MEMORANDUM

TO: Stuart Markey, Executive Director, Capital Improvement Bond Program

FROM: Sandra Chong, Assistant General Counsel

DATE: October 13, 2010

SUBJECT: Non-use of Proposition S Bond Funds for ICOC Consultant

This confirms that the District may not use Proposition S bond funds to pay Colbi Technologies, Inc., ("Colbi") to provide professional consulting services in support of the Independent Citizens Oversight Committee (ICOC). Education Code section 15280(a) (which is part of Proposition 39) states, "The governing board of the district shall, without expending bond funds, provide the citizens' oversight committee with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the citizens' oversight committee."

Accordingly, the District designated "Property Management Fund" to pay for Colbi, as indicated on the Board agenda item dated December 15, 2009, when the District Board of Education approved the written contract with Colbi. The Board agenda item specifically recited Education Code section 15280(a) almost verbatim in stating the reasons for a non-Proposition S budget source to pay for Colbi's professional consulting services. For your convenience, I have enclosed a true, correct copy of the Board agenda item.

Please let me know if I may be of further assistance.

STMC:sc

Enclosure

c: Anny Champy, ICOC Support Coordinator

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Agenda Item Details

Meeting	Dec 15, 2009 - 12/15/2009
Category	I. SUPERINTENDENTS CONSENT AGENDA
Subject	I.55. Agreement with Colbi Technologies, Inc., to Provide Professional Consulting Services in Support of the Independent Citizens Oversight Committee (ICOC); BUDGETED: YES, PROPERTY MANAGEMENT FUND (OE-9)
Access	Public
Type	Action (Consent)
Fiscal Impact	Yes
Dollar Amount	\$ 87,500.00
Budgeted	Yes
Budget Source	Property Management Fund

Public Content

RECOMMENDATION: Approve Agreement PS-90-520-02 with Colbi Technologies, Inc. (Colbi) for professional services in support of the Independent Citizens Oversight Committee (ICOC) for Proposition S. Agreement effective December 16, 2009 through December 15, 2010.

FISCAL IMPACT: Total cost is \$87,500. Budget String: 5682-04003-00-5853-8500-0000-40003-0000.

PRIOR YEAR EXPENSE HISTORY: July 30, 2004 through June 9, 2009 - \$222,792.31 (for ICOC under Proposition MM).

IMPACT TO DISTRICT STAFFING: The Agreement does not require district personnel to perform services. Services will be performed by Colbi.

BACKGROUND: On November 10, 2009, the board authorized district staff to enter into contract negotiations with Colbi to provide services to support the ICOC. Education Code section 15280 (part of Proposition 39) states that the governing board of a school district shall, without expending bond funds, provide the ICOC with any necessary technical assistance and administrative assistance in furtherance of the purpose and sufficient resources to publicize the conclusions of the ICOC. (Proposition S is a Proposition 39 bond, whereas Proposition MM is not.)

The board-appointed members of the Proposition S ICOC have undertaken their responsibilities in accordance with the ICOC Bylaws approved by the board on October 13, 2009. Organizationally, it has established four subcommittees: Audit and Performance;

Construction and Implementation; Finance, Planning and Controls; and Governance & Accountability.

In order to support the work of the ICOC, Colbi will be requested to attend multiple meetings, coordinate ICOC financial and performance audits, perform on-site project reviews and field reports for Proposition S construction projects in progress, and review, analyze and report on program and management activities. Significantly, services under Proposition S have been expanded to include reviews and reports that were not requested under Proposition MM. Such reviews will encompass four quarterly reports, a review of the staffing plan, evaluations of the Project Stabilization Agreement and Labor Compliance Program, review of the three-year construction plan, and, possibly, an additional annual report. Reviews may range from short narrative summaries to in-depth analyses depending on the type of report necessary.

During negotiations, Colbi agreed to reduce its hourly rate for its Program Manager by 5.7 percent, and it agreed to not seek reimbursement for any out-of-pocket expenses except printing costs, if so authorized by the district, for quarterly and annual reports. This reduction in its hourly rate reduces its cost to be identical with the rate Colbi charged the district during F/Y 2006-07.

Because of the nature of the activities and the uncertainty of how many hours will actually be requested, Colbi will invoice the district for only those hours actually expended and authorized by the district. This process allows for cost containment by the district. This same process was utilized under Proposition MM saving the district approximately \$100,000 during the Proposition MM activity period.

Government Code section 53060 allows a school district to contract with and employ any persons for the furnishing of special services if such persons are specially trained, experienced and competent to perform the special services required.

[Originator/Contact: Chuck Brown, Director, Facilities Planning and Construction, Office of the Executive Director, Capital Improvement Bond Program, 858.637.3686, cbrown1@sandi.net]



PS90-520-02.Colbi Technologies.11 03.pdf

Administrative Content

I.55.
12/15/09

AGREEMENT

This Agreement is entered into by and between the San Diego Unified School District, a public school district existing in the State of California having its principal business office located at 4100 Normal Street, San Diego, California 92103 (hereinafter referred to as "District") and Colbi Technologies, Inc., 17792 Orange Tree Lane, Tustin, California 92780 (hereinafter referred to as "Consultant") and sometimes collectively referred to as the "Parties."

RECITALS

WHEREAS, on November 4, 2008 the voters of San Diego County approved Proposition "S" ("Prop. S"), a \$2.1 billion school construction bond to improve safety and support student learning and instruction; and

WHEREAS, the District is restricted to using Prop. S funds for the construction, reconstruction, rehabilitation, or replacement of school facilities, furnishing or equipping school facilities, or the acquisition or lease of real property for school facilities (California Constitution XIII A, section 1(b)(3)); and

WHEREAS, the District is required to establish an Independent Citizens Oversight Committee (ICOC) to review and report to the public on the proper expenditure of taxpayers' money for school construction, and advise the public as to whether the District is in compliance with state law in the use of the Prop. S funds (California Education Code section 15278, *et seq.*); and

WHEREAS, District desires to provide the ICOC with necessary technical and administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the ICOC during the term of the Agreement; and

WHEREAS, California Government Code section 53060 grants the District the authority to contract with and employ persons for the furnishing to District of special services if such persons are specially trained, experienced, and competent to perform the special services requested; and

WHEREAS, Consultant is qualified to perform the aforesaid professional services in completion of said projects;

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, it is agreed between the Parties as follows:

1. SCOPE OF WORK

- 1.1. Consultant will perform the professional services per District requests as listed in section 1.2 below. To perform work in connection with a specific task, Consultant shall issue a proposal describing the services to be performed, project site, if applicable, and the total proposed fee amount and submit the proposal to the ICOC. If approved, the proposal will be signed by the ICOC and the District. After signature approval, District will issue a Notice to Proceed ("NTP") to Consultant to commence work. The NTP, once issued, is considered a part of this Agreement. Each NTP shall specify the scope of services to be performed by the Consultant, the schedule for work to be performed and the amount authorized to be expended for each portion of work. Work undertaken by the Consultant or its subconsultants without written authorization is done at the Consultant's risk. Each NTP may be modified by written amendment.

- 1.2. Typical services shall include, but are not be limited to, the following:
- Staff ICOC meetings, ICOC subcommittee meetings and special meetings, including Board of Education special and regular meetings, as requested.
 - Prepare and coordinate ICOC review of the independent Annual Financial Audit and the independent Annual Performance Audit as required by law and consistent with ICOC objectives.
 - Schedule, prepare and coordinate distribution of quarterly ICOC activity reports to the Board of Education.
 - Coordinate financial project reconciliation services as directed.
 - Coordinate and prepare for ICOC review the following:
 - special annual audits and/or evaluation reports for selected tasks as directed by the ICOC;
 - an annual review of the District's Prop. S staffing plan;
 - site reviews of Prop. S construction projects in progress, as needed;
 - any and all Prop. S staff reports documenting efforts to implement cost savings measures;
 - an annual review of the District's deferred maintenance program;
 - an annual report on the (a) Prop. S Business Outreach Program; (b) programs required under the District's Project Stabilization Agreement; (c) Labor Compliance Program for projects financed by Prop. S; and (d) joint use facilities projects and property acquisitions financed by Prop. S;
 - any and all presentations, workshops and special reports of the ICOC as directed.
 - Participate in the review of the District's three-year construction plan.

2. CONSIDERATION

- 2.1. Anticipated expenditures to be incurred during the term of the Agreement are \$87,500. Consultant shall be compensated for services performed as follows:

<u>Task #</u>	<u>Task Description</u>	<u>Estimated Hours//Year</u>	<u>Estimated meetings/ reviews</u>	<u>Estimated Amount</u>
1.	Meeting Support			
1a	ICOC Meeting Support	36	12	\$ 6,000
1b	Subcommittee Support	90	36	15,000
1c	Board & Special Meetings	12	6	2,000
2.	Review Activity Support			
2a	¹ Mandated Reviews	33	4	\$ 5,500
2b	On-Site Project Reviews	104	24	17,200
2c	² Review Programs & Management	54	7	9,000
2d	Specific Project Review & Evaluations	63	3	10,500
3.	Support for ICOC Issued Reports			
3a	Quarterly Reports	33	4	\$ 5,500
3b	Annual Report	41	1	6,800
3c	Estimate of Reimbursable Costs			10,000
	Total:			\$87,500

Consultant shall be compensated at the following hourly rates:

<u>Position</u>	<u>Hourly Rate: 2009-2010</u>
Principal	\$175
Program Manager	\$165
Administrative Assistant	\$75

¹ Mandated reviews include review of annual financial and performance audits, deferred maintenance and MRR, and expenditure of bond funds.

² Program and Management reviews include review of staffing plans, Business Outreach Program, Project Stabilization Agreement, Labor Compliance Program, joint use efforts, and 3-year construction plan.

If Consultant engages subconsultant support at the specific requirement of the ICOC, Consultant will be allowed a five percent (5%) markup. The requirement must be preapproved by the ICOC and authorized in writing by the District.

3. TERM

- 3.1. NTPs may be issued during the period of December 16, 2009 through December 15, 2010, with an option to extend two years at District's election. This Agreement shall not expire until all work under NTPs issued is completed, accepted, and paid for by District. All indemnification provisions contained in the Agreement shall survive beyond the expiration of this Agreement.

4. INVOICING

- 4.1. Consultant may invoice District each month Consultant's services are in progress for work performed on an hourly basis as specified in sections 1.2 and 2.1 above. Such invoiced amounts shall be in direct arithmetic proportion to the amount of work completed by Consultant by the date of the invoice, and as approved by District and the ICOC. Invoiced work must be in the proper "task" category and dollar amounts cannot be shifted from one category to another without ICOC approval. Invoices must be typed on original 8-1/2" x 11" sheet(s) of paper and reference: (1) the Agreement number, (2) task number, (3) amount authorized, (4) description of the services performed for each task in 1/2 hour increments, (5) name of individual performing services, (6) task status (open or closed), (7) amount expended during the pay period, and (8) remaining balances on the NTP task and contract total to date. If multiple school sites are involved, Consultant shall invoice by site.
- 4.2. Consultant shall present invoices to the District within fifteen (15) days after month end in order to be paid for the prior month's work. Reimbursable costs will not be approved unless specifically authorized by the ICOC and submitted to the District in writing. Original receipts, plus two copies, shall accompany all reimbursable items. This includes, but is not limited to, travel, telephone charges, postage, mileage, food, and lodging expenses.
- 4.3. The District shall verify that all required services have been performed prior to approving any payment. Payment terms shall be Net 30 Days starting from the date of District's approval of invoice for services and materials.
- 4.4. Invoices shall be submitted in duplicate and mailed to the following address, unless Consultant is instructed otherwise in the NTP:
- San Diego Unified School District
Physical Plant Operations Center
4860 Ruffner Street, Annex 9
San Diego, CA 92111-1522
Attn: Facilities Professional Services Contracts
- 4.5. Invoices submitted shall, at the request of the District, be accompanied by proof of periodic payments to all Consultant's subconsultants. In the event the Consultant fails to pay their subconsultants in a prompt manner and the non-payment results in a delay of work to the District, the District reserves the right to pay subconsultants directly and withhold those sums from the total amount due to Consultant. Any such action taken by District does not relieve Consultant of professional liability for any work provided.
- 4.6. District has the right to inspect the work of Consultant at any time during the regular working hours of Consultant upon District giving reasonable (48-hour) advance notice to Consultant. District shall have the right to examine and audit all Consultant records relating to this

Agreement, including, but not limited to, payment records for subconsultants, deliverables, schematics, design documents, as-builts, checklists, guide documents, by project manager(s), all books, estimates, records, contracts, and other such documents to confirm accuracy, completeness and currency of the cost, manpower, coordination, supervision or pricing data at no additional cost to the District. The Consultant shall make available at its office at all reasonable times during business hours, within seven days' written notice from District, the materials described in this paragraph for the examination, audit or reproduction until three (3) years after final payment under this Agreement. Notwithstanding the provisions above, Consultant shall provide any records requested by any governmental agency available after the time set forth above.

- 4.7. Consultant understands and agrees that District has the right to review project documents and work in progress and to audit financial and other records pertaining to the performance of the work under the Agreement, whether such records were prepared by Consultant, its subconsultants or anyone else associated with the work. In addition, District shall have the right to audit Consultant's records supporting the invoices submitted including payroll records and time sheets. Accounting records must be maintained in accordance with generally accepted accounting practices. The accounting system will be organized in such a manner as to provide direct and indirect cost information.
- 4.8. Consultant is aware that presentation of a claim (any request or demand for money, property, or services) to the District is subject to the False Claims Act under Government Code section 12650, *et seq.* Violation of the False Claims Act include treble damages, \$10,000 per each false claim, possible referral to the District Attorney for criminal prosecution (Penal Code section 72), and attorney's fees and costs of the District. If the District's audit reasonably concludes that Consultant has falsely presented a claim, and Consultant is unable to rebut same, Consultant, in addition to reimbursement to the District of those amounts, shall pay for the District's costs, which includes, but is not limited to, auditor's fees, consulting fees, attorney's fees, District staff time, and reasonable costs incurred by the District. The District's right to reimbursement under this paragraph shall be in addition to any other rights reserved to the District under this Agreement as well as equity and law.
- 4.9. All Agreements between Consultant and subconsultants shall require the subconsultant to comply with the above requirements concerning their records.
- 4.10. Neither the District's review, approval of, nor payment for, any of the services required under this Agreement shall be construed as a waiver of any rights under this Agreement, and Consultant shall remain liable to the District in accordance with this Agreement for all damages to the District caused by Consultant's failure to perform any of the services furnished under this Agreement to the standard of care as stated in this Agreement.

5. INDEPENDENT CONTRACTOR

- 5.1. Consultant is, for all purposes arising under this Agreement, an independent contractor. Nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, a joint venture relationship, or to allow District to exercise discretion or control over the professional manner in which the Consultant performs the services which are the subject matter of this Agreement; provided always, however, that the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. No officer, agent or employee of Consultant or District shall be deemed an officer, agent or employee of the other party hereto. Neither Consultant nor District, nor any officer, agent or employee thereof shall be entitled to any benefits to which employees of the other party hereto are entitled, including, but not limited to overtime, retirement benefits, workers' compensation benefits, and injury leave or other leave benefits.

6. TERMINATION

- 6.1. If Consultant fails to perform any of Consultant's duties to the satisfaction of the District, or if Consultant fails to fulfill in a timely and professional manner any of Consultant's obligations under this Agreement, or if Consultant violates any of the terms or provisions of this Agreement, the District shall have the right to terminate this Agreement effective immediately upon District giving written notice thereof to the Consultant. District shall also have the right in its sole discretion to terminate this Agreement or any NTP issued under this Agreement for its own convenience by written notice to Consultant. Notice is deemed given when sent. In the event of such termination, Consultant shall only be paid for professional services rendered up to the date of such termination, less any disputed amounts. The District's right to terminate under this paragraph shall be in addition to any other rights reserved to the District under this Agreement. Said termination shall not be deemed to be a breach of this Agreement and/or tortious conduct. Termination shall have no effect upon any of the rights and obligations of the Parties arising out of any transaction occurring prior to the effective date of such termination.

7. AMENDMENT OF AGREEMENT

- 7.1. This Agreement cannot be modified, changed or revised, except by a written amendment executed by both Parties. Any amendment hereto shall be in writing and shall set forth the date of the public Board of Education meeting at which the Board of Education of District approved such amendment.
- 7.2. No waiver of any right pursuant hereto or waiver of any breach hereof shall be effective unless in writing and signed by the party waiving such right or breach. No waiver of any right or waiver of breach shall constitute a waiver of any other or similar right or breach, and no failure to enforce any right hereunder shall preclude or affect the later enforcement of such right.

8. SUCCESSORS AND ASSIGNS

- 8.1. All terms, conditions, and provisions hereof shall inure to and shall bind the Parties hereto, their respective heirs, administrators, executors, successors, and assigns. Neither Consultant nor District shall assign this Agreement or any monies due or to become due hereunder without the other party's prior written consent. Any assignment without prior written approval of the non-assigning party shall be cause for termination of this Agreement at the option of the non-assigning party.

9. INDEMNITY – HOLD HARMLESS

- 9.1. Consultant shall defend, indemnify, and hold harmless the District, trustees for the Board of Education, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from costs, expenses, liabilities, losses, damages, and injuries of any kind, in law or equity, (including reasonable expert fees, reasonable attorney's fees, and court, mediation, or alternative dispute resolution costs), and arising from third Party claims and sustained or incurred by one or more of the Indemnified Parties that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant in connection with the performance of services for the District or services pursuant to this Agreement.
- 9.2. Consultant shall not be entitled to payment for additional work required to be performed as a result of Consultant's intentional or negligent acts, or errors or omissions. District may withhold payments from Consultant in an amount sufficient to pay for any damages caused by such deficient performance. District will not exercise this right unreasonably.

- 9.3. 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 the Agreement for the services performed in connection with this Agreement.
- 9.4. Any and all costs incurred by District, or for which District may become liable, caused by negligent delays of Consultant in its performance hereunder, shall be paid to District by Consultant. Without waiving any other remedies, District may deduct such costs from any payments due to Consultant.
- 9.5. Except as otherwise provided in the Agreement, nothing in this Agreement shall limit any equitable indemnity rights that the Parties have under California law.

10. FINGERPRINTING REQUIREMENTS

- 10.1. The District has determined under Education Code section 45125.1, subdivision C that in performing services pursuant to this Agreement, Consultant employees or subconsultant employees may have contact with pupils. As required under Education Code section 45125.1, subdivision (a), Consultant shall require their employees or subconsultant employees who will provide services pursuant to this Agreement to submit their fingerprints in a manner authorized by the Department of Justice (DOJ) together with a fee determined by the DOJ in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined under Education Code section 45122.1.
- 10.2. Consultant shall not permit any employee or subconsultant employee to perform services who may come in contact with pupils under this Agreement until the DOJ has determined that the employee has not been convicted of a felony or has no criminal charges pending for a felony as defined in Education Code section 45122.1. Any costs associated with regulatory compliance shall be the sole responsibility of the Consultant or its subconsultants and shall not be reimbursed by the District.
- 10.3. Consultant shall certify in writing to the governing board of the District to the attention of the Contracts Office, Facilities Management at the Physical Plant Operations Center, 4860 Ruffner Street, Room 9, San Diego, CA 92111-1522, that all of its employees or subconsultant employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony, as defined in Education Code section 45122.1.
- 10.4. In the event Consultant fails to comply with all of the requirements of Education Code section 45125.1 and injury results from such failure, Consultant shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims, demands, liability, judgments, awards, losses, injury, damages, expenses, charges or costs of any kind or character whether to the District or to any person or property which arise from or are connected with or are caused or claimed to be caused by Consultant's failure to comply with the requirements contained in Education Code section 45125.1, including, but not limited to, the requirement prohibiting Consultant from using employees or subconsultant employees who may have contact with pupils who have been convicted or have charges pending for a felony as defined in Education Code section 45122.1.
- 10.5. Any subconsultant hired by Consultant shall be subject to and shall comply with this provision. Consultant and subconsultant shall be jointly and severally liable for any injury that results from subconsultants' failure to comply with this provision.

11. CONFLICT OF INTEREST

- 11.1. Consultant shall not make or participate in making or in any way attempt to use Consultant's position to influence a District decision in which Consultant knows or has reason to know Consultant has a financial interest other than the compensation promised by this Agreement. Consultant represents that Consultant has diligently conducted a search and inventory of Consultant's financial interests and has determined that Consultant does not, to the best of Consultant's knowledge, have a financial interest that would conflict with Consultant's duties under this Agreement. Consultant will not have such interest during the term of this Agreement. Consultant will immediately advise the District if Consultant learns of a financial interest of Consultant's during the term of this Agreement.

12. OWNERSHIP

- 12.1. The Consultant retains all rights to all copyrights, designs and other intellectual property embodied in any document that the Consultant or its subconsultants prepares or causes to be prepared pursuant to this Agreement.
- 12.2. This Agreement creates a non-exclusive and perpetual license for District to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, reports, procedures, data statistics, studies, drawings, estimates, specifications, and other documents, or any other works of authorship fixed in any tangible medium of expression, including, but not limited to, physical drawings, data magnetically or otherwise recorded on computer disks, or other writings prepared or caused to be prepared by Consultant pursuant to this Agreement. This Agreement constitutes an express transfer of rights.
- 12.3. Original drawings, all original engineering calculations, plans, specifications, renderings, models, masters, related material, and electronic copies of same and all copies resulting from this Agreement whether or not completed or supplied to District as herein required are the property of District, whether the work for which they are made be executed or not.
- 12.4. District master specification files derived from MASTERSPEC are provided for use only on District projects. MASTERSPEC text is protected by copyright and use on non-District projects by non-licensed users is strictly prohibited by law.

13. INSURANCE

- 13.1. Consultant shall maintain limits no less than:
- | | |
|----------------------------|--|
| a. General Liability: | \$1,000,000 per occurrence for bodily injury, personal injury and property damage. |
| b. Automobile Liability: | \$1,000,000 per accident for bodily injury and property damage. |
| c. Workers Compensation | Statutory |
| (i) Employer's Liability: | \$1,000,000 per accident for bodily injury or disease. |
| d. Professional Liability: | \$1,000,000 per claim. Professional liability insurance shall be maintained in an amount no less than \$1,000,000. |
- 13.2. Such insurance shall be carried in an insurance company authorized to transact business of such insurance in the State of California. 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. Consultant shall furnish District with certificates of such insurance prior to the commencement of performance of this Agreement and annually thereafter through the duration of this Agreement. The Certificates of Insurance and the insurance policies required

by this Agreement shall contain a provision that coverages afforded under such policies will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been given to the District.

- 13.3. The general liability and automobile insurance policies shall name the District, trustees for the Board of Education, agents, representatives, officers, consultants, employees, as well as members of the ICOC, must be listed as an additional insured as an additional insured. If, for any reason Consultant changes, or is compelled to change insurance companies during the term of this Agreement, Consultant shall give District thirty (30) days written notice of the proposed change and shall thereafter, but prior to the expiration of the policy, obtain full coverage from another such company and provide the District with a certificate evidencing said new coverage prior to the effective date thereof. In the event of lapse of coverage, District reserves the right to withhold any and all further payments due Consultant from date of lapse.
- 13.4. District reserves the right to terminate this Agreement if professional liability, automobile liability and general liability insurance are not kept in force during the term of this Agreement.

14. ADMINISTRATION

- 14.1. The District's Facilities Department shall administer this Agreement for District and Lettie Boggs shall administer this Agreement on behalf of Consultant. All orders, notices, authorizations, and other communications provided for in this Agreement shall be made through the above-named parties at the following addresses:

District: San Diego Unified School District
Physical Plant Operations
4860 Ruffner Street, Annex 9
San Diego, CA 92111-1522
Telephone: 858.573.5854

Consultant: Colbi Technologies, Inc.
17792 Orange Tree Lane
Tustin, California 92780
Telephone: 714.505.9544; Fax: 714.838.8113

15. ENTIRE AGREEMENT AND ACKNOWLEDGEMENTS

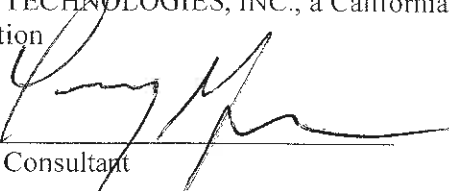
- 15.1. This Agreement constitutes the entire and only Agreement between the Parties as to the work authorized and supersedes any prior Agreement, oral or written, with respect thereto. The Parties further agree that there are no understandings, agreements, or representations not specified in this Agreement and that in entering into this Agreement, no party is relying upon any understandings, agreements, or representations not expressly set forth herein.
- 15.2. Each party to this Agreement, by the execution of this Agreement, acknowledges that this Agreement was jointly prepared by the Parties hereto. The Parties hereto each agree and acknowledge that they have carefully reviewed this Agreement, that they understand its terms, that they have had legal advice with respect to this Agreement and have had an adequate opportunity to consult with legal counsel prior to executing this Agreement, and that they have executed this Agreement with full knowledge of its meaning and effect, and agrees to be bound by its terms and conditions. The Parties hereto further agree that they have relied wholly upon their own judgment and knowledge and have not been influenced to any extent whatsoever in making this Agreement by any representations or statements made by any other party or anyone acting on behalf of any other party, except as expressly contained in

this Agreement. The Parties expressly agree that no rule of construction or interpretation which would operate to construe any term of the Agreement against either party shall apply. The Parties to this Agreement hereby agree that the proper venue for any lawsuit or other proceeding arising out of the terms of this Agreement or any party's rights under this Agreement shall be San Diego County, California.

- 15.3. This Agreement shall be construed and interpreted according to the laws of the State of California. Should any provision of this Agreement be declared or determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected by said illegal or invalid part, term, or provision, and said invalid part, term, or provision shall be deemed not to be a part of this Agreement.

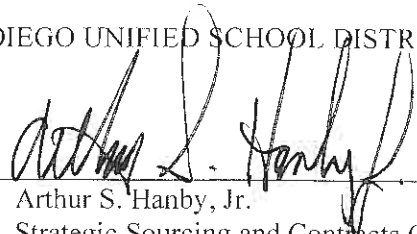
IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on their behalf by their fully authorized representatives.

COLBI TECHNOLOGIES, INC., a California corporation

By: 
Consultant

Date: November 23, 2009

SAN DIEGO UNIFIED SCHOOL DISTRICT

By: 
Arthur S. Hanby, Jr.
Strategic Sourcing and Contracts Officer

Date: 1/25/2010

LEGALITY AND FORM APPROVED

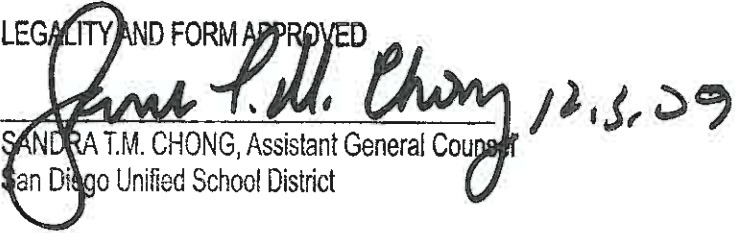
Sandra T.M. Chong, Asst. General Counsel
San Diego Unified School District

Approved in public meeting of the Board of Education
of the San Diego Unified School District on

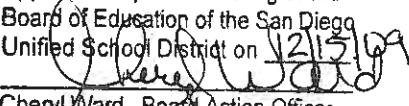
Cheryl Ward, Board Action Officer
Board of Education

The above Consultant is a (mark one): ☐ Sole Proprietorship, ☐ Partnership, ☐ Corporation
Federal Tax I.D. # _____ (or) Social Security # _____

LEGALITY AND FORM APPROVED


SANDRA T.M. CHONG, Assistant General Counsel
San Diego Unified School District

Approved in public meeting of the
Board of Education of the San Diego
Unified School District on 12/15/09


Cheryl Ward, Board Action Officer,
Board of Education



October 13, 2010

Joanne Pilgrim, Facilities Contract Supervisor
San Diego Unified School District
4860 Ruffner Street
San Diego, CA 92111

Re: Extension of Agreement No. PS-90-520-02
Consultant to the Independent Citizens' Oversight Committee (ICOC)

Dear Ms. Pilgrim:

Thank you for the opportunity to submit this revised proposal for extension of the subject agreement. Colbi Technologies is pleased to present this proposal and looks forward to further serving San Diego Unified School District (SDUSD) and the Proposition S ICOC.

Colbi Technologies proposes to provide consulting services to the ICOC during the next contract year per the terms of the current agreement and with no increase in hourly rates. Based on services required by the ICOC during this year, and based on our conversations today, the estimated hours and printing costs for next year have been revised; reference attached status summary.

Larry Goshorn (Program Manager) will be the principal person providing the consulting services supported as appropriate by other Colbi staff. Sub-consultants may also be used if the need arises.

To the right is an estimate of fees for next year and hourly rates. I'd be please to meet with SDUSD and/or the ICOC to more fully define the scope of consulting services that will be required.

Respectfully,



Larry Goshorn
Director, Consulting and Support

Description	Notes on Basis for Estimated Hours	Proposed Contact AMTs
1. Meeting Support		
ICOC Meeting Support	12 mtgs @ 2hrs + 3hrs other support	\$ 10,000
Subcommittee Support	36 mtgs @ 1.5hrs + 1hr prep' & support	15,000
Board & Special Mtg's	6 mtgs @ 1hr + 4hrs prep'	5,000
Estimate of Reimbursable Costs	No Travel Reimbursement	-
2. Review Activity Support		
Mandated Reviews	3 reviews: btwn 20-24hrs + 4hrs Admin	\$ 13,000
On-Site Project Reviews	12 reviews: each @ 4hrs + 1hr Admin	9,000
Review Programs & Management	3 reviews: btwn 4-6hrs + 2hrs Admin	4,500
Specific Project Review & Evals	1 review: each @ 16hrs + 8hrs Admin	3,500
Estimate of Reimbursable Costs	No Travel Reimbursement	-
3. Support for ICOC Issued Reports		
Quarterly Reports	4 Reports: each @ 12hrs + 2hrs Admin	\$ 8,500
Annual Report	1 Report: each @ 40hrs + 20hrs Admin	9,000
Estimate of Reimbursable Costs	Reimbursable: Print 40,000 copies	10,000

=====

Proposed Contract Amount ---> \$ 87,500

Attachments

cc: Gil Johnson, Chair ICOC
Stuart Markey, Executive Director, Capital Improvement Bond Program

Position	Hourly Rate
Principal	\$175
Program Manager	\$165
Admin' Asst' (as required)	\$75

Prop S ICOC - ICOC Consultant

Status Summary by Task

Data Date: 9/30/10

79% of annual contract

Authorized Amounts

Task Description	Total Contract	Remaining Against Task
Task 1a) - ICOC Mtgs	6,000.00	(2,745.00)
Task 1b) - Sub' Mtgs	15,000.00	2,508.75
Task 1c) - Board/Spec Mtgs	2,000.00	(1,643.20)
Task 2a) - Mandated Reviews	5,500.00	(8,648.75)
Task 2b) - On-site Reviews	17,200.00	13,131.25
Task 2c) - PrgmMngmt Reviews	9,000.00	8,340.00
Task 2d) - Proj Review/Eval	10,500.00	10,500.00
Task 3a) - Quarterly Reports	5,500.00	(3,419.45)
Task 3b) - Annual Report	6,800.00	(1,879.45)
Task 3c) - Reimbursable Costs	10,000.00	2,992.96
Totals	87,500.00	19,137.11

Expenditures

Task Description	Expenditures to Date	% of Auth'	This Billing
Task 1a) - ICOC Mtgs	8,745.00	146%	2,557.50
Task 1b) - Sub' Mtgs	12,491.25	83%	495.00
Task 1c) - Board/Spec Mtgs	3,643.20	182%	
Task 2a) - Mandated Reviews	14,148.75	257%	330.00
Task 2b) - On-site Reviews	4,068.75	24%	82.50
Task 2c) - PrgmMngmt Reviews	660.00	7%	82.50
Task 2d) - Proj Review/Eval	-	0%	
Task 3a) - Quarterly Reports	8,919.45	162%	2,763.75
Task 3b) - Annual Report	8,679.45	128%	
Task 3c) - Reimbursable Costs	7,007.04	70%	
Totals	68,362.89	78%	6,311.25

