



**San Diego Unified**  
SCHOOL DISTRICT

Prop. S ICOC Subcommittee  
Executive/Governance  
July 6, 2011, Exhibit 4

2351 Cardinal Lane, San Diego, CA 92123-3743

**REQUEST FOR PROPOSALS (RFP)**  
**NO. PS-12-0076-02**

**PROPOSITION S INDEPENDENT CITIZENS OVERSIGHT COMMITTEE**  
**(ICOC) CONSULTANT SERVICES**

**DISTRIBUTION/ADVERTISEMENT**  
**June 21, 2011**

**SUBMITTAL DEADLINE**  
**July 21, 2011**  
**3:00 P.M.**

Contact: Joanne Pilgrim  
Strategic Sourcing & Contracts  
2351 Cardinal Lane, Building M  
San Diego, CA 92123-3743  
[jpilgrim@sandi.net](mailto:jpilgrim@sandi.net)

**ADVERTISEMENT****REQUEST FOR PROPOSALS (RFP) NO. PS-12-0076-02****PROPOSITION S INDEPENDENT CITIZENS OVERSIGHT COMMITTEE (ICOC)**  
**CONSULTANT SERVICES**  
**2011**

Notice is hereby given that the San Diego Unified School District of San Diego County, California (District) is soliciting written proposals from qualified firms, partnerships, corporations, associations, or professional organizations to provide consultant services to the Proposition S Independent Citizens Oversight Committee (ICOC).

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. A complete list of projects with a summary of designated schools can be viewed on the District's website at <http://www.sandi.net/PropS/>. As required by state law, 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 Article XIII A, Section 1).

Under California Education Code section 15278, *et seq.*, the District established an Independent Citizens Oversight Committee (ICOC) to inform the public concerning the expenditure of bond revenues. To this end, the ICOC is required to actively 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 Prop. S funds. More information about the ICOC can be found on the District's website at [www.sandi.net/Proposition S/Proposition S-ICOC](http://www.sandi.net/Proposition S/Proposition S-ICOC).

Under California Education Code section 15280, the District shall, without expending bond funds, provide the ICOC with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the ICOC. The successful candidate for the RFP will assist the ICOC in the conduct of its work and will be supervised by the District and coordinate with the ICOC in the execution of the work. This will include task direction, invoice approval and day-to-day guidance as appropriate.

Participation of small emerging business enterprises (EBEs) including minority, women, and disabled veteran-owned business enterprises is encouraged. The District also seeks to promote employment and business opportunities for local residents and firms on all contracts as such opportunities may occur and to the extent legally possible.

The RFP package is available via e-mail or fax. To request a package, please e-mail your request, including your name, address, telephone and fax information to Linda Pinaroc at [lpinaroc@sandi.net](mailto:lpinaroc@sandi.net). Contact telephone number is (858) 522-5865. Responses to the RFP must be submitted at or before 3:00 p.m. on July 21, 2011. Responses submitted after the above stated date and time will not be accepted. The Board of Education for the San Diego Unified School District reserves the right to reject any and all submissions and to waive any irregularities.

By \_\_\_\_\_  
Arthur S. Hanby, Jr.  
Strategic Sourcing & Contracts Officer

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



## **TABLE OF CONTENTS**

<b>DIRECTIONS TO DISTRICT SITES .....</b>	<b>4</b>
<b>CALENDAR OF EVENTS .....</b>	<b>6</b>
<b>I. INTRODUCTION .....</b>	<b>7</b>
<b>1.1 Purpose of Solicitation .....</b>	<b>7</b>
<b>II. SCOPE OF WORK/REQUIREMENTS .....</b>	<b>8</b>
<b>III. SUBMISSION FORMAT .....</b>	<b>9</b>
<b>IV. SUBMITTAL INFORMATION .....</b>	<b>11</b>
<b>V. EVALUATION PROCESS/BASIS OF SELECTION .....</b>	<b>11</b>
<b>VI. QUESTIONS/CLARIFICATIONS .....</b>	<b>12</b>
<b><u>Additional Information</u></b>	
<b>VII. INSURANCE .....</b>	<b>12</b>
<b>VIII. DISTRICT RIGHTS .....</b>	<b>13</b>
<b><u>Attachments</u></b>	
<b>ATTACHMENT A</b>	
<b>Pricing Schedule .....</b>	<b>15</b>
<b>ATTACHMENT B</b>	
<b>Sample Agreement with Terms and Conditions.....</b>	<b>16</b>



## **DIRECTIONS TO DISTRICT SITES**

### **2351 Cardinal Lane, San Diego, CA 92123**

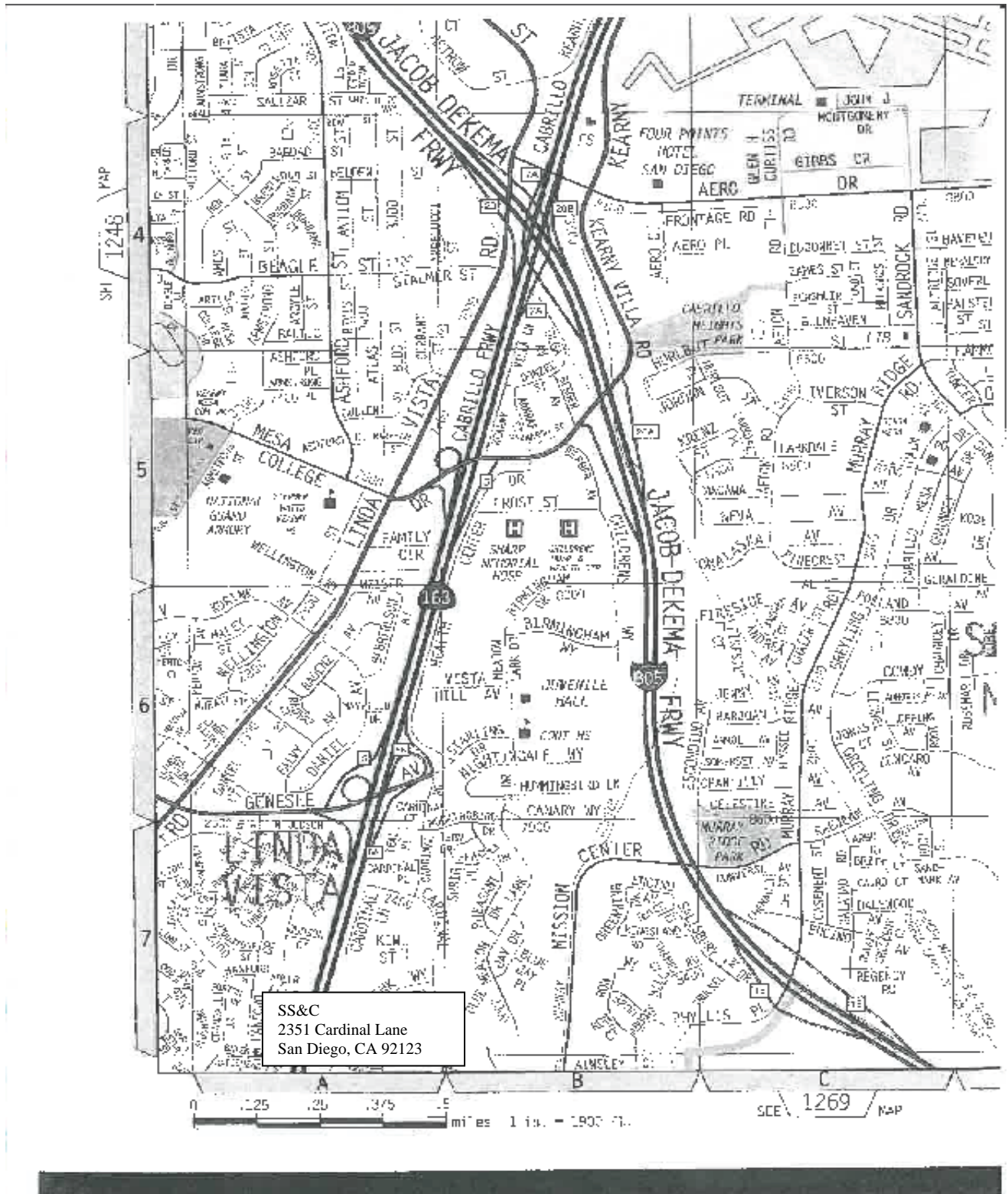
Take Genesee exit off CA Highway 163 – go east  
Turn right at Cardinal Road and go straight  
Turn right at Cardinal Drive (at Modernaire Apartments)  
Cardinal Drive turns into Cardinal Lane  
Go to top of hill past the Instructional Media Center (IMC)  
Building M (portable) is straight ahead with Flag Pole in front

### **4860 Ruffner Street, San Diego, CA 92111**

Take Clairemont Mesa Boulevard exit off I-805.  
Go east to Ruffner Street (not Ruffin)  
Turn right at light (Coco's Restaurant is across the street)  
Go two blocks to Physical Plant & Operations Center, San Diego  
Unified School District



# SAN DIEGO UNIFIED SCHOOL DISTRICT STRATEGIC SOURCING & CONTRACTS (SS&C) MAP SITE





## **CALENDAR OF EVENTS**

### **Submission Timeline**

Tentative schedule, subject to change without notice, is as follows:

RFP Release:	June 21, 2011
Statement of Qualifications Due (3:00 p.m.):	July 21, 2011
Interviews at District's discretion:	Week of August 8, 2011
Board Approval of Contract:	September 27, 2011

Interested firms must submit five (5) copies of their proposals in response to this RFP, which includes a written statement of qualifications to:

San Diego Unified School District  
Strategic Sourcing & Contracts Department  
2351 Cardinal Lane, Building "M"  
San Diego, CA 92123-3743  
Attn: Joanne Pilgrim, Facilities Contract Supervisor

**RESPONSES MUST BE RECEIVED BY PERSONAL DELIVERY, COURIER SERVICE OR BY U.S. MAIL AT OR BEFORE 3:00 P.M. ON July 21, 2011 TO THE ABOVE-LISTED ADDRESS. ANY LATE SUBMITTALS SHALL BE DEEMED NON-RESPONSIVE, AND THE DISTRICT SHALL REJECT ANY SUBMITTALS RECEIVED AFTER THE DEADLINE STATED ABOVE AND WILL RETURN THEM UNOPENED.**



**REQUEST FOR PROPOSALS (RFP) NO. PS-12-0076-02**

**PROPOSITION S INDEPENDENT CITIZENS OVERSIGHT COMMITTEE  
(ICOC) CONSULTANT SERVICES**

**2011**

**I. INTRODUCTION**

The San Diego Unified School District (the “District”) is soliciting Requests for Proposals (RFP) from qualified firms and persons to provide consultant services to the Proposition S Independent Citizens Oversight Committee (ICOC). The District Currently has over 132,000 students attending classes at 221 sites comprised of elementary, middle and high schools within a 210 square mile radius, making it the second largest school district in California and the ninth largest urban district in the United States.

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. A complete list of projects with a summary of designated schools can be viewed on the District’s website at <http://www.sandi.net/PropS/>.

**1.1 Purpose of Solicitation**

As required by state law, 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. The District may not use bond funds for teacher or administrator salaries or other school operating expenses. To ensure it is meeting its obligations under the law, the District is required to: 1) list the specific school facilities projects to be funded, 2) conduct an annual independent performance audit to ensure that the funds have been expended only on the specific projects listed, and 3) conduct annual independent financial audits of the proceeds from the sale of bonds until all of those proceeds have been expended for the school facilities projects. (California Constitution Article XIII A, Section 1).

Under California Education Code section 15278, *et seq.*, the District established an Independent Citizens Oversight Committee (ICOC) to inform the public concerning the expenditure of bond revenues. To this end, the ICOC is required to actively 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 Prop. S funds. More information about the ICOC can be found on the District’s website at [www.sandi.net/Proposition S/Proposition S-ICOC](http://www.sandi.net/Proposition S/Proposition S-ICOC).

Under California Education Code section 15280, the District shall, without expending bond funds, provide the ICOC with any necessary technical assistance and shall provide administrative assistance in furtherance of its purpose and sufficient resources to publicize the conclusions of the ICOC. The successful candidate for the RFP will assist the ICOC in the conduct of its work and will be supervised by the District and coordinate with the ICOC

in the execution of the work. This will include task direction, invoice approval and day-to-day guidance as appropriate.

No Prop. S funds shall be used to fund the services described herein.

Participation of small emerging business enterprises (EBEs) including minority, women, and disabled veteran-owned business enterprises is encouraged. The District also seeks to promote employment and business opportunities for local residents and firms on all contracts as such opportunities may occur and to the extent legally possible.

## **II. SCOPE OF WORK/REQUIREMENTS**

The scope of work includes, but is not limited to the following:

1. Perform professional and administrative support for ICOC related functions as required and directed by the District.
2. Coordinate ICOC web site maintenance as required.
3. Coordinate and compose draft ICOC suggested topics for annual financial and performance audits as required and directed by the District. Prepare and coordinate any and all information as necessary for completion of the independent Annual Financial Audit and the independent Annual Performance Audit as required by law and consistent with ICOC objectives to the independent auditor selected by the Board of Education.
4. Prepare and coordinate timely completion and publication of ICOC Quarterly and Annual Reports.
5. Coordinate and prepare for ICOC review the following as needed and directed by the District:
  - a. Special annual audits and/or evaluation reports for selected tasks.
  - b. An annual review of the District's Prop. S staffing plan.
  - c. Site reviews of Prop. S construction projects in progress, as needed, to verify costs as reported by District staff.
  - d. Any and all Prop. S staff reports documenting efforts to implement cost savings measures. Examples of such measures are: reducing professional fees, reducing site preparation costs, participating in joint use programs, incorporating efficient school site design, and design and implementation of reusable plans.
  - e. Quarterly reports, or as needed, of the District's deferred maintenance program relating to Prop. S.
  - f. Quarterly reports, or as needed, on the Prop. S Business Outreach Program and programs required under the District's Project Stabilization Agreement.
  - g. Quarterly reports, or as needed, on the Labor Compliance Program pertaining to projects financed by Prop. S.
  - h. An annual report, or as needed, on the joint use facilities projects and property acquisitions financed by Prop. S.
  - i. Any and all presentations, workshops and special reports of the ICOC.
  - j. Perform other duties as directed by the District relating to Prop. S.
6. Participate in the review of the District's three-year construction plan relating to Prop. S.



The term of the contract will be two years with three (3) one (1) year options at District's discretion. For each additional year of the contract, the rates will be reviewed and a cost of living adjustment incorporated if approved by the District with consultant from the ICOC.

### **III. SUBMISSION FORMAT**

Proposer's response to this RFP should address the following items succinctly and specifically within the appropriate sections noted below. A Table of Contents is required, and each section of the RFP must be tabbed with clear listings of the headings with page numbers to allow easy location of key information. Headings cannot be combined. Failure to include all specified sections in the response to this RFP may be deemed non-responsive.

**Title Page:** Includes the name of the firm or principal individual, business address, business telephone, fax and e-mail address, if available. If a joint venture, provide the contact information for each participating organization. Whether a single entity or joint venture, a single entity must be identified as primary for all communications with the District. Contact information for the project manager from that primary firm must be provided. Note: Payment for all services rendered will be made to the primary firm.

1. **Table of Contents:** Includes a complete and clear listing of headings and page numbers to allow easy location of key information.
2. **Company:** Legal form of organization, i.e. LLC, corporation, joint venture, etc.
3. **Proposed Work Plan and Annual Budget Estimate:** Provide a plan of work for project staff. The work plan should include an estimate of the number of hours each staff member will contribute toward completion of project work, and any non-staff expenses that will be necessary to complete project work. A description of the proposed approach to providing the services must be included.
4. **Firm Background/History:** Identify the ownership structure of the firm and provide a one-page history, including number of years the firm has provided similar services for both public and/or private sector clients.

If the RFP is being submitted by a Joint Venture of two or more firms, each firm must provide background/historical information. In addition, the statement must describe the proposed working relationship of the firms and the percentage of the total work each firm is expected to complete. Each firm that is part of the Joint Venture must also confirm in the Joint Venture Agreement that each individual Joint Venture is jointly and severally liable for the liabilities and obligations of the Joint Venture to the District.

5. **Recent Experience:** Provide the firm's recent experience with oversight activities of California public agencies, particularly K-12 school facilities bond oversight activities, if available. Provide examples of a minimum of three recent projects with cost, reviewing agencies, and terms.

6. References: Provide a minimum of three references of oversight experience of California public agencies, particularly, if available, K-12 school facilities bond oversight experience. References should include the name of the contact person and telephone numbers for agency representative, and a regulatory approval representative who was involved in the process, for each project.
7. Staff Qualifications: Provide the qualifications and recent experience of the staff to be assigned to the District's projects, including resumes and professional licenses.
8. Quality Assurance Plan: Describe the quality assurance procedures employed by your firm to minimize change orders and ensure well-coordinated and complete projects.
9. Claim/Litigation/Arbitration History: List all claims, lawsuits or arbitrations filed by the following:
  - a. On behalf of your firm, in the last five (5) years related to consulting services, including but not limited to, against a client for whom you performed professional services.
  - b. Against your firm, in the last five (5) years related to consulting services, including but not limited to, a client for whom you performed professional services.
  - c. On behalf of or against your firm, or on behalf or against any project staff, involving the District or any District employee acting in the course of work as a District employee.

For items a.-c. above, a claim is defined as a demand for payment that is disputed.

For all items, a lawsuit is an actual complaint filed in court. Arbitration is an alternative dispute resolution in which a neutral third party renders a decision after a hearing in which both sides have an opportunity to be heard.

10. Location of Firm and Consultants: Provide the address of the primary firm, (and joint venture firms if applicable), and addresses of all proposed team members. Priority will be given to firms with principal offices located within the boundaries the San Diego Unified School District. The respondent acknowledges that the District seeks to promote employment and business opportunities for local residents and firms on all contracts. The respondent will, to the extent legally possible, solicit applications for employment and proposals for subcontracts for work associated with this document from qualified residents and firms located within San Diego Unified School District boundaries as such opportunities occur. The respondent agrees to hire such residents and firms whenever feasible.
11. Sub-Consultants: Identify all professions/trades which are not "in-house" services. Specify names, professional licenses earned, and experience of the firms.
12. Employment Diversity: Participation of small emerging business enterprises (EBEs) including minority, women, and disabled veteran-owned business enterprises is encouraged. The District actively encourages the diversity of qualified professionals on the project team and encourages the primary firm, sub-consultant

firms and vendors to demonstrate employment diversity by exerting assertive efforts to improve employment of EBEs in the conduct of the project work.

13. Cost Summary: Provide the cost information listed in Attachment A as follows:

- a. Provide a Schedule of Rates (SOR) for the primary firm (or all firms if there is a joint venture or partnership). The SOR shall consist of a list of project staff categories with maximum hourly billing rates. Any proposed reimbursable expenses should also be listed. Also, identify hourly rates of any primary sub-consultants.

14. Additional Information and Comments: Include any other information that you feel is pertinent but not specifically asked for herein.

15. Signature Page: Indicate that the proposal will be valid for a period of at least six months; apply the signature of the person responsible for the proposal and a statement that said person has the authority to bind the company with this type of proposal.

#### **IV. SUBMITTAL INFORMATION**

Written responses shall be submitted on 8½ x 11 paper, single sided with font no less than 10 point. Each written submittal shall be no longer than twenty-five (25) pages in length, excluding tabs, Cover Letter, Table of Contents, attachments and exhibits, as applicable. Exhibits can be larger than 8-1/2 x 11. *Each response will be evaluated based upon the factors listed in section V, "Evaluation Process/Basis of Selection" below.*

Each written RFP must be presented to the District in a bound fashion. No pages of the response shall be loose or inserted in binder pockets as a substitute for being included within the bound portion of the response. *Please provide the District with five (5) copies which are in binders or securely bound.*

Written submittals are to be placed in sealed packages with the following information clearly marked on the outside of each package:

- (1) Name of Provider responding
- (2) Title: "Proposition S Independent Citizens Oversight Committee Consultant Services Proposal:2011"
- (3) Package number (i.e., 1 of \_\_, 2 of \_\_, etc)

Once the District receives the responses they will remain valid and may not be withdrawn for a period of six (6) months.

#### **V. EVALUATION PROCESS/BASIS OF SELECTION**

Submitted RFP's will be reviewed and ranked by a selection panel. The basis of selection in no particular order will be:

- a. Experience with public entities with preference for California public school districts;

- b. Staff Qualifications, Consultant Team;
- c. References;
- d. Quality Assurance;
- e. Location with local firms preferred;
- f. Quality of work plan
- g. Cost

Upon successful review of the submitted proposal qualifications, interviews may be scheduled at District's discretion. In the event your firm is asked to attend an interview, it is mandatory that the proposed primary project contact and a principal of the firm with the authority to enter into binding contracts with the District attend the interview.

## **VI. QUESTIONS/CLARIFICATIONS**

Questions or clarifications during the RFP preparation period should be e-mailed to Joanne Pilgrim at [jpilgrim@sandi.net](mailto:jpilgrim@sandi.net). The deadline for all questions is on or before Friday, July 15, 2011.

## **ADDITIONAL INFORMATION**

### **VII. INSURANCE**

Interested firms shall maintain limits no less than:

- 1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location ("per project" or "per location") or the general aggregate limit shall be twice the required occurrence limit, \$2,000,000.
- 2. Automobile Liability: \$1,000,000 per accident Combined Single Limit.
- 3. Workers Compensation Statutory. A waiver of subrogation endorsement in favor of the District is required.
  - a. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.

Selected firms shall furnish the District with original certificates and separate endorsements effecting coverage required by this clause. The separate endorsements should be on forms provided by the District or on other than the District's forms provided those endorsements conform to District's requirements. All certificates and separate endorsements are to be received and approved by the District before work commences. True, correct copies of insurance policies must also be provided to the District prior to commencement of any work.

The District, trustees for the Board of Education, agents, representatives, officers, consultants, and employees must be listed as an additional insured for the General Liability and Automobile Liability policies, and an original copy of the certificate must be furnished along with the separate endorsement to the District prior to commencement of any work.

The Certificates of Insurance and the insurance policies required by this Agreement shall

contain a provision that should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. If, for any reason Consultant changes, or is compelled to change insurance companies before the expiration date during the term of this Agreement, Consultant shall give District thirty (30) days written notice of the proposed change (ten [10] days notice if cancellation is due to nonpayment of premium) 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.

The insurance shall be considered primary coverage and any other insurance shall be excess coverage thereof. Such insurance shall be provided by an admitted California insurance company with a current Best's Key Rating of "A-VII" or better. The selected firm shall be responsible for any and all losses, but shall not be limited to, those tendered to the insurance company. All insurance shall be provided at the sole cost and expense of the firm.

### **VIII. DISTRICT RIGHTS**

The District reserves the right to accept or reject any and all submittals, or any portion or combination thereof, to contract services with whomever and in whatever manner the District decides, to abandon the services entirely, to award on the basis of the total submittal, and to waive any informality or non-substantive irregularity, as the District deems appropriate.

The District is not responsible for late delivery. It is the responsibility of the responding firm to ensure that the responses are submitted on time to the proper location.

All responses sent to the District prior to recommendation for Board award or actual award of contract under certain circumstances are sent as confidential documents. No part of the responses will be made public or shown to any persons outside of the District and its screening and selection panels until after a recommendation for award has been made to the District's Board of Education, or until after actual award of contract under certain circumstances, at which time all documents will be public record.

Respondent's submittal and any other supporting materials submitted to the District in response to this RFP will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned. By submitting a response with portions marked proprietary, the Respondent represents that it has a reasonable and good faith belief that such material is exempt from the California Public Records Act and agrees to indemnify, defend, and hold harmless the District, its board of trustees, officers, agents, and employees from and against any and all claims, losses, damages, liabilities, lawsuits, judgments, fines, penalties, attorney's fees, costs, and expenses of any nature whatsoever arising from or relating to the District's non-disclosure of such designated portions of an RFP response if disclosure is deemed required by law in the opinion of District legal counsel or is required by a court order. Neither this document, nor any submittals provided in response to the RFP, requires the District to negotiate or award an agreement with any responding firm or individual. The District reserves the right to amend this RFP by means of addenda.

The District reserves the right to award a contract any time up to six months from the date of opening the submittals. The award of a contract is at the sole discretion of the District acting through the Board of Education.

Issuance of this RFP does not commit the District to award of a contract for services or to pay any costs incurred with the preparation of a response to the RFP. All Respondents should note that the execution of any contract pursuant to this RFP is dependent upon successful negotiation of terms and fees and approval by the District's Board of Education.

Prior to contract execution, proof of all insurances at the levels specified in the specific contract will be required. Fingerprinting and clearance through the California Department of Justice of all personnel who will visit school sites is also required.



## **ATTACHMENT A**

### **PRICING SCHEDULE**

III.13.a: Provide your firm's schedule of hourly rates as indicated below. Include any reimbursable and subconsultant costs.

<u>Position Description</u>	<u>Maximum Hourly Rate: July 1, 2011- June 30, 2012</u>	<u>Maximum Hourly Rate: July 1, 2012- June 30, 2013</u>
Subconsultants:		
Reimbursable Items:		



## **ATTACHMENT B**

# **SAMPLE AGREEMENT WITH TERMS AND CONDITIONS**



Board of Education  
San Diego Unified School District  
4100 Normal Street  
San Diego, California 92103

## 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 District, which may receive input from the ICOC. If approved, the proposal will be signed by 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:

1. Perform professional and administrative support for ICOC related functions as required and directed by the District.
2. Coordinate ICOC web site maintenance as required.
3. Coordinate and compose draft ICOC suggested topics for annual financial and performance audits as required and directed by the District. Prepare and coordinate any and all information as necessary for completion of the independent Annual Financial Audit and the independent Annual Performance Audit as required by law and consistent with ICOC objectives to the independent auditor selected by the Board of Education.
4. Prepare and coordinate timely completion and publication of ICOC Quarterly and Annual Reports.
5. Coordinate and prepare for ICOC review the following as needed and directed by the District:
  - a. Special annual audits and/or evaluation reports for selected tasks.
  - b. An annual review of the District’s Prop. S staffing plan.
  - c. Site reviews of Prop. S construction projects in progress, as needed, to verify costs as reported by District staff.
  - d. Any and all Prop. S staff reports documenting efforts to implement cost savings measures. Examples of such measures are: reducing professional fees, reducing site preparation costs, participating in joint use programs, incorporating efficient school site design, and design and implementation of reusable plans.
  - e. Quarterly reports, or as needed, of the District’s deferred maintenance program relating to Prop. S.
  - f. Quarterly reports, or as needed, on the Prop. S Business Outreach Program and programs required under the District’s Project Stabilization Agreement.
  - g. Quarterly reports, or as needed, on the Labor Compliance Program pertaining to projects financed by Prop. S.
  - h. An annual report, or as needed, on the joint use facilities projects and property acquisitions financed by Prop. S.
  - i. Any and all presentations, workshops and special reports of the ICOC.
  - j. Perform other duties as directed by the District relating to Prop. S.
6. Participate in the review of the District’s three-year construction plan relating to Prop. S.

1.3. Consultant shall forward to the District with copy to Chairman of the ICOC a status report each

month showing contract authorizations by work category, or task, total expenditures to date against each task, and the remaining authorization for each task.

- 1.4. Consultant shall attend ICOC subcommittees by invitation of the subcommittee chairman based on the meeting agenda or exhibits prepared, which are presented or addressed by the Consultant. Consultant shall keep the ICOC Chairman informed on any subcommittees Consultant will be attending.
- 1.5. When appropriate, as determined by the District, the ICOC may be involved in any change in task authorizations, such as moving authorized amounts from one task to another to avoid over expenditure of any particular task. Such modified task orders may reflect ICOC review and be approved in writing by the District.

## 2. CONSIDERATION

- 2.1. Anticipated expenditures to be incurred during the term of the Agreement are \$\_\_\_\_\_. Consultant shall be compensated for services performed as follows in accordance with Exhibit "A" which is attached hereto and incorporated herein by this reference.

## 3. TERM

- 3.1. NTPs may be issued during the period of \_\_\_\_\_, 2011 through \_\_\_\_\_, 2013, 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. Each Consultant invoice must be reviewed by the ICOC for verification that the services were authorized and hours and amounts billed are correct. After ICOC sign off that the invoice is correct, the District will approve payment to the Consultant. 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, acts or omissions 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.

### 13. INSURANCE

#### 13.1. Consultant shall maintain limits no less than:

- |                          |   |
|--------------------------|---|
| 1. General Liability:    | \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location (“per project” or “per location”) or the general aggregate limit shall be twice the required occurrence limit, \$2,000,000. |
| 2. Automobile Liability: | \$1,000,000 per accident Combined Single Limit.   |
| 3. Workers Compensation  | Statutory. A waiver of subrogation endorsement in favor of the District is required.  |
| a. Employer’s Liability: | \$1,000,000 per accident for bodily injury or disease.  |

Selected firms shall furnish the District with original certificates and separate endorsements effecting coverage required by this clause. The separate endorsements should be on forms provided by the District or on other than the District’s forms provided those endorsements conform to District’s requirements. All certificates and separate endorsements are to be received and approved by the District before work commences. True, correct copies of insurance policies must also be provided to the District prior to commencement of any work.

The District, trustees for the Board of Education, agents, representatives, officers, consultants, and employees must be listed as an additional insured for the General Liability and Automobile Liability policies, and an original copy of the certificate must be furnished along with the separate endorsement to the District prior to commencement of any work.

The Certificates of Insurance and the insurance policies required by this Agreement shall contain a provision that should any of the above-described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. If, for any reason Consultant changes, or is compelled to change insurance companies before the expiration date during the term of this Agreement, Consultant shall give District thirty (30) days written notice of the proposed change (ten [10] days notice if cancellation is due to nonpayment of premium) 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.



The insurance shall be considered primary coverage and any other insurance shall be excess coverage thereof. Such insurance shall be provided by an admitted California insurance company with a current Best's Key Rating of "A-VII" or better. The selected firm shall be responsible for any and all losses, but shall not be limited to, those tendered to the insurance company. All insurance shall be provided at the sole cost and expense of the firm.

#### 14. ADMINISTRATION

- 14.1. The District's Facilities Planning & Construction Department shall administer this Agreement for District and \_\_\_\_\_ 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  
Fax: \_\_\_\_\_

Consultant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone: \_\_\_\_\_  
Fax: \_\_\_\_\_

#### 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.

SAN DIEGO UNIFIED SCHOOL DISTRICT

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

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

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

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

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 \_\_\_\_\_Sole Proprietorship, \_\_\_\_\_Partnership, \_\_\_\_\_Corporation

Federal Tax I.D. # \_\_\_\_\_