



**BUSINESS DEPARTMENT – Facilities Development & Planning**  
**Office of the Executive Director**  
2425 Webster Avenue, Long Beach, CA 90810  
(562) 997-7550 Fax (562) 595-8644

## Exhibit A – Request for Clarification

**TO:** Christy Wong

*e-mail:* [cawong@lbschools.net](mailto:cawong@lbschools.net)  
*cc:* [bmurray@lbschools.net](mailto:bmurray@lbschools.net)

**FROM:** LBUSD

**DATE:** April 10, 2018

RFQ Name: Project Management Consulting Services	RFQ Number: 1718/164
RFQ Question	RFQ Response
Deadline: Tuesday, April 10, 2018	Date: Thursday, April 12, 2018

**QUESTION #1**      RFQ Question Subject:      RFQ Question Section:

Under Exhibit B Scope of Services, are there any other relevant staff that can be submitted as a qualified consultant?  
*Yes, miscellaneous support staff may include qualified consultants from the following fields: Accounting, Contracts, Move Management, Technology, Scheduling, Document Control, and Environmental Services.*

**QUESTION #2**      RFQ Question Subject:      RFQ Question Section:

**QUESTION #3**      RFQ Question Subject:      RFQ Question Section:

**QUESTION #4**      RFQ Question Subject:      RFQ Question Section:

**QUESTION #5**      RFQ Question Subject:      RFQ Question Section:



**BUSINESS DEPARTMENT – Facilities Development & Planning**  
**Office of the Executive Director**  
 2425 Webster Avenue, Long Beach, CA 90810  
 (562) 997-7550 Fax (562) 595-8644

**Exhibit A – Request for Clarification**

**TO:** Christy Wong

*e-mail: [cawong@lbschools.net](mailto:cawong@lbschools.net)  
 cc: [bmurray@lbschools.net](mailto:bmurray@lbschools.net)*

**FROM:** TPC Inc.

**DATE:** 4/10/18

RFQ Name: Project Management Consulting Services  
 RFQ Question  
 Deadline: Tuesday, April 10, 2018

RFQ Number: 1718/164  
 RFQ Response  
 Date: Thursday, April 12, 2018

**QUESTION #1** RFQ Question Subject: Project Team RFQ Question Section: 3.9

Is it acceptable for a principle and/or partner of a corporation to submit their own resume for a project management billable position on the PM Consulting Services Contract ?

*Yes, a principle and/or partner of a corporation may submit their own resume.*

**QUESTION #2** RFQ Question Subject: RFQ Question Section:

**QUESTION #3** RFQ Question Subject: RFQ Question Section:

**QUESTION #4** RFQ Question Subject: RFQ Question Section:

**QUESTION #5** RFQ Question Subject: RFQ Question Section:



**Exhibit A – Request for Clarification**

**TO:** Christy Wong

*e-mail: [cawong@lbschools.net](mailto:cawong@lbschools.net)  
 cc: [bmurray@lbschools.net](mailto:bmurray@lbschools.net)*

FROM:	DATE:
RFQ Name: Project Management Consulting Services	RFQ Number: 1718/164
RFQ Question	RFQ Response
Deadline: Tuesday, April 10, 2018	Date: Thursday, April 12, 2018

**QUESTION #1** RFQ Question Subject: RFQ Question Section:

Can a font type of Arial and size 10 be used for this report?  
*Yes, this typeface and font is acceptable.*

**QUESTION #2** RFQ Question Subject: RFQ Question Section:

Is Exhibit H Local Hire Procedure required to be signed and returned in response to this RFQ or is it for informational purposes?  
*No, the Local Hire Procedure is not required to be signed and returned in response to this RFQ. It is for informational purposes.*

**QUESTION #3** RFQ Question Subject: RFQ Question Section:

When will the Agreement Exhibit G Agreement for Project Management Consulting Services be available for review?  
*See attached Project Management Agreement, at the end of the Request for Clarification Responses.*

**QUESTION #4** RFQ Question Subject: RFQ Question Section:

Can the daily rates be excluded from being submitted in Exhibit D Billing Rates if hourly rates are posted?  
*Yes, the daily rates can be excluded if hour rates are included.*

**QUESTION #5** RFQ Question Subject: RFQ Question Section:



**BUSINESS DEPARTMENT – Facilities Development & Planning**  
**Office of the Executive Director**  
2425 Webster Avenue, Long Beach, CA 90810  
(562) 997-7550 Fax (562) 595-8644

## Exhibit A – Request for Clarification

**TO:** Christy Wong

*e-mail:* [cawong@lbschools.net](mailto:cawong@lbschools.net)  
*cc:* [bmurray@lbschools.net](mailto:bmurray@lbschools.net)

**FROM:** STV Construction, Inc.

**DATE:** April 10, 2018

RFQ Name: Project Management Consulting Services	RFQ Number: 1718/164
RFQ Question	RFQ Response
Deadline: Tuesday, April 10, 2018	Date: Thursday, April 12, 2018

**QUESTION #1** RFQ Question Subject: [LBUSD Logo/Images](#) RFQ Question Section: [N/A](#)

May we use LBUSD's logo and select images from LBUSD's website and RFP documents in our proposal and tentative interview materials?

Yes, LBUSD logo and images may be used in response to this RFQ.

**QUESTION #2** RFQ Question Subject: [On-Call Contracts](#) RFQ Question Section: [3.7 - Project Experience](#)

Can on-call contracts be included in the project experience?

Yes, on-call contracts may be included.

**QUESTION #3** RFQ Question Subject: [Projects in Progress](#) RFQ Question Section: [3.7 - Project Experience](#)

Can projects that are currently in progress be included in the project experience?

Yes, projects that are currently in progress may be included.

**QUESTION #4** RFQ Question Subject: [Projects in Progress](#) RFQ Question Section: [3.8 - Firm Projects](#)

Can projects that are currently in progress be included in the list of firm projects?

Yes, projects that are currently in progress may be included.

**QUESTION #5** RFQ Question Subject: [Local Participation Form](#) RFQ Question Section: [Checklist Form](#) Local Participation and

Are we required to submit this form in our qualifications package?

No, the Local Hire Procedure is not required to be filled out as a response to this RFQ.



**Exhibit A – Request for Clarification**

**TO:** Christy Wong

*e-mail:* [cawong@lbschools.net](mailto:cawong@lbschools.net)  
*cc:* [bmurray@lbschools.net](mailto:bmurray@lbschools.net)

**FROM:** Pacifica Services, Inc.

**DATE:** March 29, 2018

RFQ Name: Project Management Consulting Services	RFQ Number: 1718/164
RFQ Question	RFQ Response
Deadline: Tuesday, April 10, 2018	Date: Thursday, April 12, 2018

**QUESTION #1**                      RFQ Question Subject:                      RFQ Question Section:

Under 3.7 Project Experience. Provide a minimum of five California K-12 DSA projects  
 Question: Can California Community Colleges DSA-Certified project completed in the last 5 years be considered equivalent to K-12 DSA school?

*Yes, DSA certified California Community College projects will be considered.*

**QUESTION #2**                      RFQ Question Subject:                      RFQ Question Section:

The list of Pre-qualified Construction Management Consultant per RFQ#1617/28 dated 10/18/17, list several firms at LBUSD.  
 Question: Can these firms also participate in this RFQ#1718/164 as either prime or sub-consultant.  
*Yes, firms currently on the Construction Management Pre-qualified List may respond to this RFQ#1718-164 as either a prime or subconsultant.*

**QUESTION #3**                      RFQ Question Subject:                      RFQ Question Section:

**QUESTION #4**                      RFQ Question Subject:                      RFQ Question Section:

**QUESTION #5**                      RFQ Question Subject:                      RFQ Question Section:



**BUSINESS DEPARTMENT – Facilities Development & Planning**  
**Office of the Executive Director**  
2425 Webster Avenue, Long Beach, CA 90810  
(562) 997-7550 Fax (562) 595-8644

## Exhibit A – Request for Clarification

**TO:** Christy Wong

*e-mail:* [cawong@lbschools.net](mailto:cawong@lbschools.net)  
*cc:* [bmurray@lbschools.net](mailto:bmurray@lbschools.net)

**FROM:** Jacobs Project Management Co.

**DATE:** April 10, 2018

RFQ Name: Project Management Consulting Services	RFQ Number: 1718/164
RFQ Question	RFQ Response
Deadline: Tuesday, April 10, 2018	Date: Thursday, April 12, 2018

**QUESTION #1** RFQ Question Subject: Delivery Methods RFQ Question Section: Page 9, Section 1E

Will the District utilize/consider alternative delivery methods for its projects?  
**The District may utilize any of the following delivery methods: Design, Bid, Build; Design Build; Multi Prime; Lease Leaseback.**

**QUESTION #2** RFQ Question Subject: Decision-Making RFQ Question Section: Page 9, 11

Is this not a role that would be part of and defined by program-wide procedures?  
**This role is defined in the Scope of Services.**

**QUESTION #3** RFQ Question Subject: Contract RFQ Question Section: Page 10, 3B

Will the District provide approved templates for Division 00 & Division 01 documents?  
**Yes, the District will provide templates for Division 00 and Division 01 documents.**

**QUESTION #4** RFQ Question Subject: Contingencies RFQ Question Section: Page 10, 3E

Is there District policy governing contingencies? If so, please cite or provide reference point.  
**No, managing project contingency is on a**

**QUESTION #5** RFQ Question Subject: Additional Tasks RFQ Question Section: Page 10, 3P

Will the District contract for Move Management services separately?  
**Move Management will be considered as a miscellaneous support staff in response to this RFQ.**



## Exhibit A – Request for Clarification

**TO:** Christy Wong

*e-mail:* [cawong@lbschools.net](mailto:cawong@lbschools.net)  
*cc:* [bmurray@lbschools.net](mailto:bmurray@lbschools.net)

**FROM:** Jacobs Project Management Co.

**DATE:** April 10, 2018

RFQ Name: Project Management Consulting Services	RFQ Number: 1718/164
RFQ Question	RFQ Response
Deadline: Tuesday, April 10, 2018	Date: Thursday, April 12, 2018

**QUESTION #6** RFQ Question Subject: Commissioning RFQ Question Section: Page 10, Section 4B

<p>Will the District contract for Commissioning Services directly or will that be part of the contractor's scope?  <i>The District contracts for Commissioning Services directly.</i></p>
---

**QUESTION #7** RFQ Question Subject: Agreement RFQ Question Section: Exhibit G

<p>When will the District provide the "Agreement for Project Management Consulting Services" for review?  <i>See attached Project Management Agreement, at the end of the Request for Clarification Responses.</i></p>
--

**QUESTION #8** RFQ Question Subject: Labor Compliance RFQ Question Section: Exhibit H, 3D

<p>Under Resolution No. 032012-A, Part Three, Paragraph D, will the District contract directly for third party Labor Compliance or will this scope be handled in another way? If so, how?  <i>Yes, the District contracts Labor Compliance directly.</i></p>
--

**QUESTION #9** RFQ Question Subject: Projects RFQ Question Section: Page 4, 3.7

<p>Can we use Community College District projects as experience since all projects go to DSA for approval?  <i>Yes, DSA certified Community College projects will be considered in response to this RFQ.</i></p>
--

**QUESTION #10** RFQ Question Subject: RFQ Question Section:

<p> </p>
----------



Agreement No. XXXX.XX  
Board Approval: \_\_\_\_\_  
Purchase Order: \_\_\_\_\_

## PROJECT MANAGEMENT AND PLANNING CONSULTANT SERVICES AGREEMENT

This AGREEMENT is made and entered into this <<DATE>> day of <<MONTH>> in the year <<YEAR>>, between the **LONG BEACH UNIFIED SCHOOL DISTRICT**, hereinafter referred to as (“DISTRICT”), and <<NAME OF CONSULTANT>>, hereinafter referred to as “CONSULTANT”. The DISTRICT and the CONSULTANT are sometimes referred to herein as a “PARTY” and collectively as the “PARTIES”. This AGREEMENT is made with reference to the following facts:

**WHEREAS**, the DISTRICT requires services and/or advice of a highly specialized and technical nature in connection with certain financial, economic, accounting, consulting and/or administrative matters; and

**WHEREAS**, such services and advice are not available within the DISTRICT, and cannot be performed satisfactorily by DISTRICT employees; and

**WHEREAS**, CONSULTANT possesses the necessary expert knowledge, experience, and ability to perform services not available through DISTRICT personnel; and

**WHEREAS**, CONSULTANT is specially experienced and competent to provide to the DISTRICT certain specialized services and/or advice in one or more of the foregoing areas; and

**WHEREAS**, DISTRICT desires to obtain specialized services and/or advice for **PROJECT MANAGEMENT AND PLANNING CONSULTING SERVICES FOR THE FACILITIES DEVELOPMENT AND PLANNING BRANCH**, hereinafter referred to as the “PROJECT”, located in the DISTRICT; and

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

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

### **ARTICLE I** **SCOPE AND SERVICES AND RESPONSIBILITIES**

1. Services to be Provided by the CONSULTANT. The CONSULTANT shall provide to the DISTRICT on the terms set forth herein all the services articulated in the CONSULTANT’s proposal which is attached hereto and incorporated herein as **EXHIBIT “A”** (the “CONSULTANT’s WORK PLAN”). Where the CONSULTANT’s WORK PLAN consists of a proposal or quote submitted in response to a Request for Proposals (“RFP”) from the DISTRICT, the CONSULTANT’s WORK PLAN shall be considered to include the DISTRICT’s RFP. The DISTRICT and CONSULTANT expressly agree to incorporate the terms and conditions of the DISTRICT’s RFP into this AGREEMENT by this reference and the PARTIES understand that the RFP shall constitute a binding part this AGREEMENT. In the event of a discrepancy, inconsistency, or other difference between the terms of the RFP or the CONSULTANT’s WORK PLAN with this AGREEMENT, the PARTIES agree that the terms of this AGREEMENT shall be controlling.

2. Classification: To the extent it is determined under applicable law that CONSULTANT fails to meet the statutory prerequisites for classification as a professional expert operating under a



personal services agreement, CONSULTANT resigns any and all rights and privileges derived from this AGREEMENT and any resulting relationship, which resignation is deemed accepted under such circumstances by the DISTRICT.

3. Contract Term. The effective period of this AGREEMENT is to be <<Start Date>> through <<End Date>>.

4. If any claim, demand, dispute or lawsuit arises related in any manner to the PROJECT (collectively, "CLAIM"), but unrelated to the services furnished pursuant to this AGREEMENT, the CONSULTANT agrees to cooperate and provide any reasonably requested services as directed by the DISTRICT or DISTRICT's legal counsel. Any documents or information provided to CONSULTANT or prepared, reproduced, maintained and/or managed by CONSULTANT related to a CLAIM are, and shall remain, confidential. Any communications, work performed or services provided related to a CLAIM for DISTRICT's legal counsel, or at the direction or request of DISTRICT's legal counsel, shall be protected by any applicable privilege including, but not limited to, the attorney-client privilege, attorney work product doctrine, and joint defense privilege. CONSULTANT shall not provide, release or distribute any information or documents related to a CLAIM to any person or entity without prior written consent from the DISTRICT or DISTRICT's legal counsel. All documents, reports or information related to a CLAIM, even if prepared by CONSULTANT, shall remain sole property of the DISTRICT in accordance with Article VII of this AGREEMENT.

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

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

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

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

7. CONSULTANT shall not change any of the key personnel without prior written approval by the DISTRICT, unless said personnel cease to be employed by CONSULTANT. In either case, DISTRICT shall be allowed to interview and approve replacement personnel. CONSULTANT agrees that reassignment of any of the listed personnel during the AGREEMENT period shall only be with other professional personnel who have equivalent experience and shall require prior consultation and written approval by the DISTRICT. Any costs associated with reassignment of personnel shall be borne

exclusively by CONSULTANT and CONSULTANT shall not charge the DISTRICT for the cost of training or “bringing up to speed” replacement personnel.

If any designated lead or key person fails to perform to the satisfaction of the DISTRICT, then upon written notice the CONSULTANT shall immediately remove that person from the PROJECT and provide a temporary replacement. CONSULTANT shall within thirty (30) work days, provide a permanent replacement person acceptable to the DISTRICT. DISTRICT may condition its approval of replacement personnel upon a reasonable transition period wherein new personnel will learn the Program and Projects and get “up to speed” at CONSULTANT’s cost.

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

## **ARTICLE II**

### **COMPENSATION TO THE CONSULTANT**

1. The DISTRICT shall compensate the CONSULTANT as follows:

a. The DISTRICT agrees to pay the CONSULTANT in accordance with the fee, rate and/or price schedule information set forth in **EXHIBIT “A”** for the services performed pursuant to this AGREEMENT. In no event shall the total payment to CONSULTANT exceed **<<AMOUNT IN WORDS>>** and **<<NO OR AMOUNT IN NUMBERS>>/100 DOLLARS (\$<<AMOUNT IN NUMBERS>>)** for performing the services required by this AGREEMENT and **EXHIBIT “A”**.

b. CONSULTANT shall invoice costs monthly, or another periodic basis approved by the DISTRICT, for the services provided pursuant to this AGREEMENT from the time the CONSULTANT begins work on the PROJECT. All costs must be supported by an invoice, receipt, or other acceptable documentation as determined by the DISTRICT.

c. Except as expressly provided herein, CONSULTANT agrees that no other compensation, fringe benefits, or other remuneration is due to CONSULTANT by the DISTRICT for services rendered under this AGREEMENT. CONSULTANT shall not apply for or receive statutory benefits available to employees of the DISTRICT because CONSULTANT is not an employee of the DISTRICT; rather, CONSULTANT is operating under a personal services agreement pursuant to Education Code section 45103.1(b)(2) and has only the rights defined by this AGREEMENT.

d. Unless specifically requested in writing by the DISTRICT, CONSULTANT shall not invoice the DISTRICT for any services pursuant to this AGREEMENT performed during any holiday officially recognized or designated by the DISTRICT, or any other days when the DISTRICT offices are closed, and DISTRICT will not pay for any costs incurred by CONSULTANT during such DISTRICT holidays.

## **ARTICLE III**

### **REIMBURSABLE EXPENSES**

1. Reimbursable expenses are in addition to compensation for basic and extra services, and shall be paid to the CONSULTANT at one and one-tenth (1.1) times the expenses incurred by the

CONSULTANT, the CONSULTANT's employees and consultants for the following specified items unless otherwise approved by the DISTRICT in writing:

- a. Approved reproduction of reports and/or other documents.
  - b. Fees advanced for securing approval of authorities in connection with the services rendered pursuant to this AGREEMENT.
2. Not included in the Fee, reimbursable expenses are estimated to be <<AMOUNT IN WORDS>> and <<NO OR AMOUNT IN NUMBERS>>/100 DOLLARS (\$<<AMOUNT IN NUMBERS>>), and this amount shall not be exceeded without the prior written approval of the DISTRICT.
3. DISTRICT will provide CONSULTANT with basic general conditions reasonably required to perform its services under this AGREEMENT including office space, computer and other general office equipment. If CONSULTANT requires any additional equipment or supplies not provided by the DISTRICT, the CONSULTANT shall notify the DISTRICT in writing. No reimbursable expenses other than those set forth in this AGREEMENT shall be incurred by CONSULTANT without prior written consent by the DISTRICT. CONSULTANT shall not be entitled to reimbursement for any costs if CONSULTANT fails to comply with the requirements set forth in this Paragraph.

#### **ARTICLE IV** **TERMINATION**

1. This AGREEMENT may be terminated by either PARTY upon fourteen (14) days written notice to the other PARTY in the event of a substantial failure of performance by such other PARTY, including insolvency of CONSULTANT; or if the DISTRICT should decide to abandon or indefinitely postpone the PROJECT.
2. In the event of a termination based upon abandonment or postponement by DISTRICT, the DISTRICT shall pay to the CONSULTANT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records, and expense reports up until the date of the abandonment or postponement plus any sums due the CONSULTANT for Board approved extra services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents whether delivered to the DISTRICT or in the possession of the CONSULTANT. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement consultant costs shall be deducted from payments to the CONSULTANT.
3. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with Article IV, Paragraph 4 below, and CONSULTANT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by CONSULTANT.
4. This AGREEMENT may be terminated without cause by DISTRICT upon twenty (20) days written notice to the CONSULTANT. In the event of a termination without cause, the DISTRICT shall pay to the CONSULTANT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records, and expense reports up until the date of notice of termination plus any sums due the CONSULTANT for Board approved extra

services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to other documents whether delivered to the DISTRICT or in the possession of the CONSULTANT.

5. In the event of a dispute between the PARTIES as to performance of the work or the interpretation of this AGREEMENT, or payment or nonpayment for work performed or not performed, the PARTIES shall attempt to resolve the dispute. Pending resolution of this dispute, CONSULTANT agrees to continue the work diligently to completion. If the dispute is not resolved, CONSULTANT agrees it will neither rescind the AGREEMENT nor stop the progress of the work, but CONSULTANT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute, after the PROJECT has been completed, and not before. The PARTIES may agree in writing to submit any dispute between the PARTIES to arbitration. The DISTRICT agrees to pay the CONSULTANT the undisputed amounts due under this AGREEMENT.

6. THE PARTIES UNDERSTAND AND AGREE THAT ARTICLE IV OF THIS AGREEMENT SHALL GOVERN ALL TERMINATION RIGHTS AND PROCEDURES BETWEEN THE PARTIES. ANY TERMINATION PROVISION THAT IS ATTACHED TO THIS AGREEMENT AS AN EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE PARTIES.

#### **ARTICLE V** **ADDITIONAL CONSULTANT SERVICES**

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

a. Making material revisions in reports or other documents when such revisions are required by the enactment or revision of laws, rules or regulations subsequent to the preparation and completion of such documents.

b. Preparing reports and other documentation and supporting data, and providing other services in connection with project modifications required by causes beyond the control of the CONSULTANT which are not the result of the direct or indirect negligence, errors or omissions on the part of CONSULTANT;

c. If the DISTRICT requests additional shifts to complete the services articulated in **EXHIBIT "A"** where the requests for additional shifts does not arise from the direct or indirect negligence, errors or omissions on the part of CONSULTANT and the CONSULTANT's compensation is expressly conditioned on the lack of fault of the CONSULTANT;

d. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with the generally accepted practice in the CONSULTANT's industry.

**ARTICLE VI**  
**ACCOUNTING RECORDS OF THE CONSULTANT**

1. Records of the CONSULTANT's direct personnel and reimbursable expenses pertaining to any extra services provided by the CONSULTANT, which are in addition to those services already required by this AGREEMENT, and any records of accounts between the DISTRICT and CONSULTANT shall be kept on a generally recognized accounting basis and shall be available to the DISTRICT or DISTRICT's authorized representative at mutually convenient times.

**ARTICLE VII**  
**REPORTS AND/OR OTHER DOCUMENTS**

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

**ARTICLE VIII**  
**INDEMNITY & INSURANCE**

1. To the fullest extent permitted by law, CONSULTANT agrees to indemnify, and hold DISTRICT entirely harmless from all liability arising out of:

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

b. General Liability: Liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the CONSULTANT or the DISTRICT, or any person, firm or corporation employed by the CONSULTANT or the DISTRICT upon or in connection with the PROJECT, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents or independent consultants who are directly employed by the DISTRICT;

c. Professional Liability: Any loss, injury to or death of persons or damage to property caused by any act, neglect, default or omission of the CONSULTANT, or any person, firm or corporation employed by the CONSULTANT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation including the DISTRICT, arising out of, or in any way connected with the services performed by CONSULTANT in accordance with this AGREEMENT, including injury or damage either on or off DISTRICT property; but not for any loss, injury, death or damages caused by the sole or active negligence, or willful misconduct of the DISTRICT.

d. The CONSULTANT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings, arising out of Article VIII, Paragraphs 1 (a) and (b) above, that may be brought or instituted against the DISTRICT, its officers, agents or employees,

on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

e. THE PARTIES UNDERSTAND AND AGREE THAT ARTICLE VIII, SECTION 1 OF THIS AGREEMENT SHALL BE THE SOLE INDEMNITY, AS DEFINED BY CALIFORNIA CIVIL CODE §2772, GOVERNING THIS AGREEMENT. ANY OTHER INDEMNITY THAT IS ATTACHED TO THIS AGREEMENT AS AN EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE PARTIES.

f. ANY ATTEMPT TO LIMIT THE CONSULTANT'S LIABILITY TO THE DISTRICT IN AN ATTACHED EXHIBIT SHALL BE VOID AND UNENFORCEABLE BETWEEN THE DISTRICT AND THE CONSULTANT. IN NO EVENT SHALL THE CONSULTANT'S LIABILITY BE LIMITED TO ANY AMOUNT INCLUDING, BUT NOT LIMITED TO, THE AMOUNT OF FEES RECEIVED BY THE CONSULTANT FOR PERFORMING SERVICES RELATED TO THIS AGREEMENT.

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

a. The CONSULTANT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

b. Comprehensive general and auto liability insurance with limits of not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit, bodily injury and property damage liability per occurrence, including:

- i. Owned, non-owned and hired vehicles;
- ii. Blanket contractual;
- iii. Broad form property damage;
- iv. Products/completed operations; and
- v. Personal injury.

c. Professional liability insurance, including contractual liability, with limits of ONE MILLION DOLLARS (\$1,000,000), per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts any portion of CONSULTANT's duties, CONSULTANT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

d. Each policy of insurance required in Article VIII, Section 2 (b) above shall name DISTRICT and its officers, agents and employees as additional insureds; shall state that, with respect to the operations of CONSULTANT hereunder, such policy is primary and any insurance

carried by DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days written notice shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation. CONSULTANT shall notify DISTRICT in the event of material change in, or failure to renew, each policy. Prior to commencing work, CONSULTANT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event CONSULTANT fails to secure or maintain any policy of insurance required hereby, DISTRICT may, at its sole discretion, secure such policy of insurance in the name of and for the account of CONSULTANT, and in such event CONSULTANT shall reimburse DISTRICT upon demand for the cost thereof.

## **ARTICLE IX** **MISCELLANEOUS**

1. CONSULTANT, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONSULTANT understands and agrees that CONSULTANT and all of CONSULTANT's employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. CONSULTANT assumes the full responsibility for the acts and/or omissions of CONSULTANT's employees or agents as they relate to the services to be provided under this AGREEMENT. CONSULTANT shall assume full responsibility for payment of any applicable prevailing wages and all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective CONSULTANT's employees.

2. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either the DISTRICT or CONSULTANT.

3. The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other PARTY to this AGREEMENT with respect to the terms of this AGREEMENT. CONSULTANT shall not assign this AGREEMENT.

4. This AGREEMENT shall be governed by the laws of the State of California.

5. THIS AGREEMENT SHALL NOT INCLUDE OR INCORPORATE THE TERMS OF ANY GENERAL CONDITIONS, CONDITIONS, MASTER AGREEMENT OR ANY OTHER BOILERPLATE TERMS OR FORM DOCUMENTS PREPARED BY THE CONSULTANT. THE ATTACHMENT OF ANY SUCH DOCUMENT TO THIS AGREEMENT AS **EXHIBIT "A"** SHALL NOT BE INTERPRETED OR CONSTRUED TO INCORPORATE SUCH TERMS INTO THIS AGREEMENT UNLESS THE DISTRICT APPROVES OF SUCH INCORPORATION IN A SEPARATE WRITING SIGNED BY THE DISTRICT. ANY REFERENCE TO SUCH BOILERPLATE TERMS AND CONDITIONS IN THE PROPOSAL OR QUOTE SUBMITTED BY THE CONSULTANT SHALL BE NULL AND VOID AND HAVE NO EFFECT UPON THIS AGREEMENT. PROPOSALS, QUOTES, STATEMENT OF QUALIFICATIONS AND OTHER SIMILAR DOCUMENTS PREPARED BY THE CONSULTANT MAY BE INCORPORATED INTO THIS AGREEMENT AS **EXHIBIT "A"** BUT SUCH INCORPORATION SHALL BE STRICTLY LIMITED TO THOSE PORTIONS DESCRIBING THE CONSULTANT'S SCOPE OF WORK, RATE AND PRICE SCHEDULE AND QUALIFICATIONS.

6. The PARTIES have had the opportunity to, and have to the extent each deemed appropriate, obtained legal counsel concerning the content and meaning of this AGREEMENT. Each of

the PARTIES agrees and represents that no promise, inducement or agreement not herein expressed has been made to effectuate this AGREEMENT. This AGREEMENT represents the entire AGREEMENT between the DISTRICT and CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the CONSULTANT.

7. The rule of construction that any ambiguities are to be resolved against the drafting PARTY shall not be employed in the interpretation of this AGREEMENT. It is expressly understood and agreed that the PARTIES to this AGREEMENT have participated equally, or have had equal opportunity to participate, in the drafting hereof.

8. Time is of the essence with respect to all provisions of this AGREEMENT.

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

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

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

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

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

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

To the DISTRICT:

Long Beach Unified School District  
Facilities Planning & Development  
Attn: Contracts Department  
2425 Webster Avenue  
Long Beach, CA 90810  
Telephone: 562-997-7550

To the CONSULTANT:

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



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

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

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

18. Education Code Section 45125: During the entire term of this AGREEMENT, CONSULTANT, if applicable, shall fully comply with the provision of Education Code section 45125.1 (Fingerprinting Requirements), when it is determined that the CONSULTANT will have contract with Long Beach Unified School District pupils in the performance of Services under this AGREEMENT.

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

20. In accordance with California Education Code section 17604, this AGREEMENT is not a valid or enforceable obligation against the DISTRICT until approved or ratified by motion of the Governing Board of the DISTRICT duly passed and adopted.

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

<<NAME OF CONSULTANT>>

**LONG BEACH UNIFIED SCHOOL DISTRICT  
OF LOS ANGELES COUNTY**

By \_\_\_\_\_

By \_\_\_\_\_

Print Name \_\_\_\_\_

Beth A. Smith

Title \_\_\_\_\_

Assistant Purchasing and Contracts Director

Date \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT “A”**

**CONSULTANT ‘S WORK PLAN, SCOPE OF SERVICES, AND COMPENSATION**

*(INSERT CONSULTANT’S PROPOSAL)*