

REQUEST FOR PROPOSALS

Materials Testing & Inspection Services

LOS ANGELES UNIFIED SCHOOL DISTRICT **Maintenance & Operations**

R-10015

RFP Date – March 24, 2010

REQUEST FOR PROPOSALS
MATERIALS TESTING & INSPECTION SERVICES

LOS ANGELES UNIFIED SCHOOL DISTRICT
FACILITIES SERVICES DIVISION
Maintenance & Operations

IMPORTANT INITIAL INFORMATION

RELEASE OF RFP:

March 24, 2010

SUBMITTALS DUE AT FACILITIES CONTRACTS

April 23, 2010
Before 3:00 P.M.

1 ORIGINAL UNBOUND, 4 BOUND COPIES & 1 ELECTRONIC COPY (CD)

ADDRESS FOR SUBMITTALS

Los Angeles Unified School District
Facilities Division Services
Facilities Contracts
333 South Beaudry Avenue, 23rd Floor
Los Angeles, CA 90017
Ref : R-10015

CONTRACT BEGIN DATE (tentative)

October, 2010

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REQUEST FOR PROPOSALS

MATERIALS TESTING & INSPECTION SERVICES

IMPORTANT INFORMATION

ALL FIRMS INTENDING TO RESPOND TO THIS REQUEST NEED TO REGISTER AT LOS ANGELES UNIFIED SCHOOL DISTRICT'S FACILITY CONTRACTS SERVICES WEBSITE (<http://laschools.org/employee/fcs/rfqs-rfps>) SUPPLYING YOUR EMAIL ADDRESS AND CHOOSING A PASSWORD YOU WILL RETAIN FOR USE WHEN ACCESSING THE WEBSITE IN THE FUTURE. THE REQUEST IS IN ADOBE FORMAT. YOU MAY NEED TO DOWNLOAD THE LATEST VERSION OF ADOBE TO VIEW THE REQUEST; A LINK FOR THE ADOBE DOWNLOAD MAY BE FOUND AT THE DISTRICT'S WEBSITE. REGISTRATION AT THE DISTRICTS WEBSITE WILL ENSURE YOU RECEIVE ALL POSTINGS AND ANY UPDATED MATERIAL RELATED TO THIS REQUEST.

1. BACKGROUND

The Los Angeles Unified School District ("District") is seeking firm/s ("Consultant" or "Proposer") to provide materials testing and inspection services to support the District's A/E Technical Support group. The District may select multiple firms to provide these services. The District will use those services during the design and construction phases of the District's New Construction and Modernization Program. The selected firms (each a "Consultant") will conduct construction materials tests and perform associated laboratory work and inspection on selected school sites to ensure quality control of the District's new construction and renovation projects and other construction, in compliance with CBC and the Field Act.

Task Order Contracts:

Selection of Firms and Individual Task Order Contracts Based upon Fee Schedule. The District will select multiple firms to provide these services and will award three-year master task order contracts with two one-year option periods. Renewals will be issued at the District's discretion. There is no guarantee consultants currently providing these services will be selected for a new contract.

Individual Task Order Contracts will be issued for each project. When District identifies one or more project(s) within the scope of work contemplated herein, the District will request the Consultant to prepare and submit its proposal for performance of such work for the District's review. (Detailed proposal submission will be outlined in the contract.) If a subconsultant is used, proposal must include subconsultant proposal as backup. Following the District's review, the District may, in its sole discretion, issue a sequentially numbered task order in the form of a Notice to Proceed (NTP) authorizing Consultant to perform work as described in the individual task order and incorporating the contract derived from this RFP by reference. Subject only to the provisions of said contract, Consultant shall immediately proceed to perform work in accordance with any such NTP and all terms and conditions of said contract, including the Fee Schedule, except to the extent the NTP expressly stipulates otherwise. Consultant shall not commence any services without execution of a written master contract and executed individual task orders. Any services performed without such contract and approved task orders will not be paid by the District.

Contract Expiration and Issuance of Task Orders

Consultant shall not accept any orders or requests for Services (Task Orders) under this agreement after the agreement expiration date. Although performance of Services may continue past that date, any such orders or requests for Services (Task Orders) must be placed on or before the agreement expiration date. Each task order will define the delivery date as agreed to by the parties.

2. SCOPE OF SERVICES

- A. The selected consultants (each, the “**Consultant**”) would perform the services described in Exhibit A, Scope of Services, which is attached to this RFP in accordance with that agreement. Such services, to be so performed, will hereinafter be referred to as the “**Services**”.
- B. The District anticipates that the initial term of the Master Agreement will be three (3) years followed by two (2) one-year renewal term options. Presently, the District’s plan contemplates that the contract amount for the initial three-year term will not exceed \$4.5 million. Consultant’s requests for rate increases can be submitted two (2) years from initial execution date and yearly subsequently. All rate increases will be reviewed and considered by the District. If rate increases are approved the District may, in its sole discretion, amend rates.

3. MINIMUM QUALIFICATIONS

In addition to completing Attachments 1 and 2, each Consultant must meet the following minimum qualifications:

- A. Principals are licensed professionals in the appropriate fields and have at least five years experience performing similar work in the State of California.
- B. Firm must be in existence for a minimum of 5 years and have a business license in the State of California.
- C. Materials Testing Laboratory certified for at least five (5) years in the State of California (a copy of LEA certification must be included.)
- D. The firm and/or principals must have performed work under California Public Schools, Hospitals and Essential Services Building (CDMG Note 48) to address materials testing considerations. (Firm must provide examples and references.)

4. RESPONSE TO THIS REQUEST FOR PROPOSALS

Responses to this request are limited to 15 pages not including Proposal Certification, Resumes and Small Business Enterprise Certificates. Responses must address the items below and shall address each criterion separately **in the order presented. Begin with a cover letter and provide the following in the order listed*.**

- A. **FIRM INFORMATION** *(Not weighted – for informational purpose only)*
 - 1) In a *narrative* under the heading ***Firm History/Structure***, provide a brief synopsis of the firm’s history, structure and how your firm meets the minimum qualifications.
 - 2) As part of a narrative under the heading ***Litigation***, describe any litigation or threatened litigation against your firm or its owners that may affect your performance or completion of this proposed program.
 - 3) Completed Attachment 1 – Firm Information

- 4) Complete and sign Attachment 2 – Proposal Certifications.

Proposals will be evaluated based upon the criteria in Sections B, C, D, E, and F.

B. FEE FOR SERVICES (Weighted Value 30%)

Using **Attachment 3**, Billing Rate Form, supply rates for the services/tests listed. *Include Fee Schedules for other Materials Testing & Inspection Services your firm provides not included in Attachment 2 Billing Rate Form (this item will not be evaluated).* Proposers' negotiated rates will be used for the initial two year period and not be increased automatically yearly. At the end of the two year period District will consider consultants written request for rate increase.

Project Stabilization

Portions of this Scope of Services are subject to the Project Stabilization Agreement (PSA). The District has entered into a Project Stabilization Agreement that will affect the Proposers' cost of providing services. The selected firms will be obligated to comply with the PSA and the Director of Industrial Relations Prevailing Wage Determinations that covered work performed under this contract. Proposers are encouraged to download the PSA from <http://laschools.org/contractor/psa> and review it. Please note that all questions regarding prevailing wages should be directed to LAUSD's Labor Compliance Program (website: <http://laschools.org/contractor/lc>, email address: lcp@lausd.net, and phone 213/241-4665). Any questions related to the Project Stabilization Agreement should be directed to Dan Sloan at Parsons Constructors Inc. Dan can be reached at 626/440-4120 or dan.sloan@parsons.com.

C. FIRM EXPERIENCE - PROJECTS (Weighted Value 20 %)

Describe three projects that demonstrate experience with materials testing and inspection services.

Provide a reference (Contact Person Name, Company, position title, address, e-mail address, and current phone numbers/s) for each project with direct knowledge of the firm's past performance.

Provide copies of documentation of laboratory certifications.

D. FIRM EXPERIENCE – GOVERNMENT PROCESSES (Weighted Value 20 %)

Demonstrate how firm and key individuals have a thorough knowledge of the all applicable laws and regulations, including Title 24 Part 1 & 2 of the California Code of Regulations; a thorough knowledge of the code requirements and limitations of working in public school K-12 buildings in California.

Provide general business information/experience of proposing firm. Provide three references (Contact Person Name, Company, position title, address, e-mail address, and current phone numbers/s) from previous clients with direct knowledge of the firm's past performance.

E. **KEY PERSONNEL QUALIFICATIONS & EXPERIENCE** (Weighted Value 20%)

List management and staff personnel in the offices(s) that would be providing services to the District.

Provide detailed resumes of key personnel Proposer intends to use to work on the District's projects, showing educational background, certifications and assignment experience for at least the past five (5) years. Key personnel include the specialists the proposer intends to complete work on District projects. Demonstrated field experience is preferred.

Provide all appropriate and current materials testing and inspection certifications and licenses held by individuals.

The District relies specifically on Proposer's ability to provide the services with staff qualified as, and otherwise in the manner, represented in the proposal. Proposer hereby warrants providing the services with staff so qualified as and otherwise in the manner, represented in this proposal. Proposer certifies that all subconsultants are qualified and certified to perform work assigned under each task order.

F. **SMALL BUSINESS ENTERPRISE PLAN (SBE)** (Weighted Value – 10%)

The District has adopted a Small Business Enterprise (SBE) Program that has a goal of SBE participation at a level of 25%. Eligibility of small firms under this program must meet the U.S. Small Business Administration size standards. The SBE participation goal is one of many selection criteria for the eventual evaluation of the qualified submittals.

- 1) List your firm's proposed Subconsultants, their experience and history with your firm. Designate which Subconsultant is a SBE with an asterisk and percentage contribution for proposed work. Subconsultant resumes may be added using Attachment 4.
- 2) Describe your firm's demonstrated history related to the SBE partnerships on contracts and the outreach efforts your firm will use to achieve SBE participation goal.
- 3) Describe the in-house programs that your firm has developed and will use to support the success of SBEs on your team.

NOTE: Copies of current SBE certifications must be provided to evidence status as a SBE firm. If the Proposer has not been certified and desires to become certified, the requisite application is included in Exhibit D. **The application should not be submitted** with the submittal. The application must be submitted directly to the SBE Outreach Program office (213/241-4985) for processing **prior** to the submittal due date. The LAUSD or reciprocal agency SBE certification letter(s) must be included in the submittal.

***Submittals include the following in the order listed:**

- Cover letter (1 page)
- Firm Information
 - Narrative with headings **for Firm History/Structure and Litigation;** and
 - As part of Narrative describe how your firm meets **Minimum Qualifications.**
 - Complete Attachment 1 – Firm Information Form
 - Complete and signed Attachment 2 – Proposal CertificationsCertifications include:
 - Compliance to District Ethics Policy;
 - Conflict of Interest; and
 - Certification of Proposal.
- Fee for Services
 - Complete Attachment 3 – Rate Sheet
- Firm Experience – Projects
- Firm Experience - Government
- Key Personnel Qualifications and Experience
 - Resumes
 - Materials testing and inspection certifications and licenses held by individuals
- SBE Program
 - Narrative – Small Business Enterprise Goal/Plan
 - SBE Certificates if applicable
- Firms Materials Testing & Inspection Fee Schedule

Word versions of Attachments 1 - 3 are available at the website listed under this Request for Qualifications ([HTTP://LASCHOOLS.ORG/EMPLOYEE/FCS/RFQS-RFPS](http://LASCHOOLS.ORG/EMPLOYEE/FCS/RFQS-RFPS)).

The submittal shall be limited to 15 pages, not including detailed Resumes, Attachments 1-3 (Firm Information Form, Rate Sheet and Proposal Certifications, and Small Business Enterprise Certificates). Certificates of Insurance are required prior to the commencement of work, but not as part of any response to this RFP.

5. SELECTION PROCESS

The proposals will be evaluated and scored by an evaluation panel consisting of individuals selected by the District's Source Selection Authority.

Proposing firms will bear all costs of this RFP and interviews, if any. Selection for this effort will, in no way, preclude the selected firm from consideration, nor guarantee consideration of the selected firm, for any follow up project.

Proposals will be evaluated based upon the criteria in Sections 3 and 4, above. Proposals, in general, will be evaluated using the following weighted scale:

Fee for Services	30%
Firm Experience – Projects	20%
Firm Experience – Government Process	20%
Key Personnel Qualifications & Experience	20%
Small Business Enterprise Plan	10%

At the District's discretion, to further assist in evaluation, some, one, or all of the responding firms and/or individuals may be requested to participate in an oral interview. The interview will be used as another opportunity to clarify any issues within a given proposal and explore the approaches that may be used to satisfy all requirements for the District.

6. SUBMISSION

Proposals must be completed in accordance with the terms of this RFP and received at Los Angeles Unified School District, Facilities Contracts, 23rd Floor, by **no later than 3:00 p.m., local time, on April 23, 2010.**

Submittals will be time and date stamped upon receipt. Submittals received after the time and date indicated will not be accepted. Timing factors, including, but not limited to, traffic, weather, parking, and building security, are the responsibility of the Proposer, not the District.

Proposals shall be limited to 15 pages, not including detailed resumes, billing rates, and general business information and the certifications required by Sections 3 & 4, which may be submitted as appendices. Certificates of Insurance are required prior to the commencement of work, but not as part of any response to this RFP.

A completed submittal will consist of: five (5) signed submittals, one (1) original "scan-ready" unbound copy with wet signature and four (4) bound copies. Additionally, one (1) electronic copy on a CD (compact disk) must be submitted. The original, copies and electronic copy of the completed proposal with postage or delivery charge prepaid by the firm shall be correctly addressed and delivered as follows:

LOS ANGELES UNIFIED SCHOOL DISTRICT
FACILITIES CONTRACTS,
333 SOUTH BEAUDRY AVENUE, 23RD FLOOR
LOS ANGELES, CALIFORNIA 90017
ATTN: **RFP# R-10015**

The "scan-ready" document must be submitted according to the following specifications:

- a) printed **single-sided** on white, 20 lb. (8-1/2" x 11") paper, without any perforations, holes, folds or laminations;
- b) **NO** tabs, dividers or other indexing markers may be attached or extend beyond the 8-1/2" x 11" dimension of the scan ready copy, nor should any pages be inserted into plastic covers and
- c) the scan-ready submittal must be unbound without staples or fasteners affixed or penetrating the submittal (**binder clips or similar clamps are acceptable**).

All proposals submitted in response to this RFP shall become the property of the District.

Submission of a proposal pursuant to this RFP shall constitute acknowledgment and acceptance of all terms and conditions set forth in this RFP unless otherwise expressly stated in the proposal. Following completion of the evaluation process, proposers may request a debriefing from this office. Requests must be made within 10 calendar days of the Notice of Award(s) to the proposing firms. The request should be made via e-mail addressed as follows:
joann.rel@lausd.net

7. INFORMATION

For information regarding this RFP, contact JoAnn Rel, LAUSD, Facilities Contracts, at joann.rel@lausd.net.

- All questions **MUST** be in writing and received prior to **12 noon, April 12, 2010**.
- All answers to questions will be in writing and posted to the website at www.laschools.org.

8. DISTRICT RIGHTS

Should the proposing Consultant be awarded an Agreement through this Request for Proposal process Consultant acknowledges that the District has determined to enter into such Agreement with Consultant in reliance, in part, on the veracity of the representations made by Consultant in Consultant's proposal. The District relies specifically on Consultant's ability to provide the Services with staff qualified as, and otherwise in the manner, represented in Consultant's proposal.

District may investigate the qualifications of any individual or firm under consideration, require confirmation of information furnished and require additional evidence of qualifications to perform the services described in this RFP. District also reserves certain rights, including, but not limited to, the following:

- a. Reject any or all of the proposals.
- b. Issue subsequent Requests for Qualifications or Proposals.
- c. Cancel the entire Request for Proposal.
- d. Remedy technical errors in the Request for Proposal process.
- e. Appoint evaluation committees to review qualifications or proposals.
- f. Seek the assistance of outside technical experts in qualification or proposal evaluation.
- g. Approve or disapprove the use of particular subcontractors.
- h. Establish a short list of firms eligible for discussions after review of RFP.
- i. Negotiate with any, all, or none of the firms.
- j. Solicit best and final offers from all or some of the firms.
- k. Award a contract to one or more firms.
- l. Waive informalities and irregularities in RFP.
- m. Award without discussion.

9. PRIOR TO AWARD OF CONTRACT

- a. Consultant must submit direct billing rates for each proposed staff member. Burdened Billing Rates and Overtime Rates will be included in the contract and will be used for initial two year period.
- b. Consultant must be insurable to the minimums set forth in Exhibit C (Insurance Requirements.) and must be able to present current insurance certificate(s).
- c. The Consultant, its employees, agents, subconsultants and subconsultant employees who go to school sites when students are present will be required to comply with the requirements of the California Education Code Sections 45125.1 and 45125.2 at no cost to the District. In accordance with Section 45125.1(d) all personnel going to the school site(s) must submit his or her fingerprints to the California Department of Justice (DOJ) in a manner authorized by the DOJ to

determine whether the employee has been arrested or convicted of any crime. All personnel who may come in contact with students must be cleared by the DOJ (Section 42125.1(f)). Any person who has been arrested or convicted of any serious or violent felony, as defined by California Penal Code Sections 667.5 and 1192.7 will not be allowed on District property. The Consultant is responsible for the administration and all costs relating to the fingerprinting and screening by the DOJ of all candidates for positions with the District. Confirmation of the DOJ clearance or confirmation that the fingerprints have been submitted to DOJ must be submitted to the District within 14 calendar days of the employee's start date and confirmation of DOJ clearance must be submitted within six (6) weeks of the start date. If the above time requirements cannot be met a letter of explanation must be submitted for the District's approval prior to the expiration of the time allowed.

- d. If applicable, the District intends to conduct an audit of the Consultant to ascertain the Overhead rate based upon 48 CFR Federal Acquisition Regulations Systems, Chapter 1, Part 13 et. seq. The Architect agrees to submit to this audit and enter into fee negotiations utilizing the findings of the audit.
- e. If it is anticipated that the fee is over \$1,000,000, the District intends to conduct a Due Diligence report on the firm and its principals.

10. PUBLIC RECORDS ACT

Responses to this RFP become the exclusive property of District and subject to the California Public Records Act. Those elements in each response which are trade secrets as that term is defined in Civil Code section 3426.1(d) or otherwise exempt by law from disclosure and which are prominently marked as "TRADE SECRET", "CONFIDENTIAL", or "PROPRIETARY" may not be subject to disclosure. District shall not in any way be liable or responsible for the disclosure of any such records including, without limitation, those so marked if disclosure is deemed to be required by law or by an order of the Court. Proposers, which indiscriminately identify all, or most of their submittal as exempt from disclosure without justification may be deemed non-responsive.

In the event District is required to defend an action on a Public Records Act request for any of the contents of a proposal marked "confidential", "proprietary", or "trade secret", Proposer agrees, upon submission of its proposal for District's consideration, to defend and indemnify District from all costs and expenses, including attorneys' fees, in any action or liability arising under the Public Records Act.

11. CONCLUSION

This RFP shall not, in any manner, be construed to be an obligation on District to enter into a contract or result in any claim for reimbursement of cost for any efforts expended in responding to the RFP or in anticipation of any contract.

EXHIBIT A

FORM OF MASTER AGREEMENT

Agreement Exhibit A

Scope of Services

1. Subject to Task Order

- 1.1 As and when the District identifies one or more project(s) within the scope of work contemplated herein, the District will issue a written Task Order directing Consultant to proceed to perform the services outlined in it and authorizing Consultant to do so. The Task Order will generally specify a start date, end date (or period of performance) scope of services and a not-to-exceed or lump sum amount.
- 1.2 Subject only to the provisions of this Agreement and of the applicable Task Order, Consultant shall immediately proceed to perform work in accordance with the Task Order. Consultant shall only be entitled to compensation under this Agreement for work performed pursuant to a Task Order duly issued by the District.
- 1.3 A Task Order can establish an end date that is after the expiration date of this Agreement, in which event, all terms of this Agreement shall survive this Agreement's expiration through the completion of the unfinished work. Consultant shall be entitled to payment for such post-expiration period work as long as the applicable Task Order was issued prior to this Agreement's expiration date and the end date indicated in the Task Order has not passed.

2. Specific Testing Services Included

- 2.1 Consultant specifically agrees to perform, within the time period specified in the applicable Task Order, the following:
 - 2.1.1 CONSTRUCTION MATERIALS TESTING AND VERIFICATION
/INSPECTION OF FABRICATION/INSTALLATION
 - 2.1.2 NON-DESTRUCTIVE TESTING AND INSPECTION
 - 2.1.3 MATERIALS TESTING AND INSPECTION COORDINATION which may include, without limitation:
 - 2.1.3.1 Materials testing coordination,
 - 2.1.3.2 Inspection of construction materials,
 - 2.1.3.3 Quality control of construction materials, and/or
 - 2.1.3.4 Coordination with the scheduling of delivery of construction materials;
 - 2.1.4 MATERIAL TESTING AND INSPECTION DOCUMENTS AND REPORTS, which may include, without limitation:
 - 2.1.4.1 Daily log submittal;
 - 2.1.4.2 Daily time sheets (Project name, project number, task order number, contract number, date, and OAR name);

- 2.1.4.3 Journals;
- 2.1.4.4 Certifications;
- 2.1.4.5 Calibration reports;
- 2.1.4.6 Quality control reports, required jurisdictional forms and submittals; and/or
- 2.1.4.7 Final Verified Reports upon completion of construction projects

2.2 Consultant's performance of the above-listed services shall include, unless otherwise specified in the applicable Task Order, Consultant's:

- 2.2.1 Review of applicable plans, specifications, material certificates and test reports to verify and understand the service requirements;
- 2.2.2 Meeting with District representatives, contractors and suppliers for the same purpose;
- 2.2.3 Preparation or review of mix designs for compliance with project requirements;
- 2.2.4 Verification that samples received are of appropriate quality and quantity;
- 2.2.5 Preparation and submission to the District of a written report specifying tests performed, results achieved and, where applicable, actions taken to correct nonconforming work; and
- 2.2.6 With respect to inspections performed, preparation and submission to the District of Consultant's written inspection report indicating whether and how the work inspected failed (to the extent that it did) to conform to the applicable plans and specifications or to applicable standards of workmanship.

3. Sampling

Sections 3.1 through 3.5 below shall apply in those instances, if any, where a Task Order includes sampling or other intrusive services.

3.1 *Site Operations*

The District will establish test or boring locations and secure surveying services if the District determines that those services are required.

3.2 *Samples and Waste*

Immediately upon completion of tests pursuant to a Task Order, Consultant will, in accordance with all applicable law and good practice, dispose of samples not consumed during testing. If District directs Consultant to retain any samples, Consultant will take reasonable steps to retain them, at District's expense, but only for a mutually acceptable time. Consultant reserves the right to refuse storage of any samples. If the samples or wastes resulting from Consultant's services or any soils or materials contain asbestos, molds, fungi, bacteria, viruses, or any other hazardous or toxic substances, pollutants,

or their constituents, Consultant, at District's direction and expense, will either (i) return such samples, wastes, soils or materials to, or leave them with, District for appropriate disposal or (ii) using a manifest signed by District as generator, transport such samples, wastes, soils or materials to a location selected by District for final disposal. In so doing, Consultant will be acting solely as agent for District and will at no time assume title, constructive or express, to any such samples, wastes, soils, or materials.

3.3 *Unanticipated Conditions*

To the extent the same is actually known by the District, the District will inform Consultant in writing of all known asbestos, molds, fungi, bacteria, viruses, or any other hazardous or toxic substances, pollutants, or their constituents and conditions existing on or near a project site that present a potential danger to health, the environment or Consultant's equipment or personnel prior to commencement of Consultant's services. Should Consultant encounter such conditions of which Consultant was not so informed, then, upon notice to District, Consultant, in its sole discretion, may (i) suspend the performance of its services and submit a change order request to be signed by District prior to proceeding or (ii) discontinue the performance of its services and terminate this Agreement. If the unanticipated condition presents an immediate or potential threat to health, safety, the environment, or property, Consultant will immediately inform District, so that District can notify the appropriate government authorities. If District fails to do so, District will hold Consultant harmless if Consultant provides such notice.

3.4 *Excusable Delay*

Consultant will not be in breach of this Agreement due to any delay that the District reasonably determines to be unforeseeable and to have resulted from circumstances beyond the control of Consultant. In the event of any such delay, Consultant may be entitled to an extension of the time necessary to complete services according to a revised schedule, and Consultant may, upon submittal to the District of District approved documentation, be compensated for any necessary and reasonable increased costs of performance that result from such delay.

4. Consultant Staff

- 4.1 Consultant shall submit to the District's authorized representative the names and credentials of all personnel to be assigned to perform the Services for review by the District prior to the start of the assignment.
- 4.2 The District shall have the right to require Consultant to reassign any employee determined by the District to be unqualified, incompetent or otherwise unacceptable.
- 4.3 Consultant agrees that approved personnel assigned to a specific school or school site shall not be released from such assignment without prior written approval from the District.

5. Fingerprinting

- 5.1 In the performance of this Agreement and at no additional cost to the District, Consultant shall comply, and shall require its sub-consultants (if any) to comply, with the requirements of California Education Code Sections 45125.1 and 45125.2, including the fingerprinting obligations provided therein.
- 5.2 Consultant shall not permit an employee, agent or other person (including a sub-consultant) who, by California Education Code Sections 45135.1 and 45125.5, should be finger-printed to come in contact with District students until the California Department of Justice has ascertained that the person has not been convicted of a serious or violent felony as defined in California Education Code Sec. 45122.1 and California Penal Code Sections 667.5 and 1192.7. Further, Consultant shall immediately remove from District property any employee or agent (including employees or agents of Consultant's sub-consultants) who has been arrested or convicted of any serious or violent felony, as defined above. On the request of the District, Consultant shall certify in writing that Consultant has complied with this section.

6. Additional Work

- 6.1 Upon mutual agreement, evidenced by an executed amendment to this Agreement, Consultant may perform services determined by the District to be outside the scope of this Agreement ("**Additional Work**").
- 6.2 Payment for Additional Work shall be established as negotiated by the District and the Consultant subject to a maximum amount approved in writing in advance by the District.

7. Consultant Representations

Consultant hereby warrants and represents that:

- 7.1 Consultant's principals have at least five years experience performing, in the State of California, work similar to the Services; and
- 7.2 Consultant and/or Consultant's principals have performed work pursuant to California Public Schools, Hospitals and Essential Services Building (CDMG Note 48) to address materials testing and inspection considerations in compliance with CBC and the Field Act.

8. District Reliance on Consultant's Proposal

Notwithstanding any other provision of this Agreement (specifically including, without limitation, Section 17 of Exhibit C [Terms and Conditions]), Consultant hereby acknowledges that the District has determined to enter into this Agreement with Consultant in reliance, in part, on the veracity of the representations made by Consultant in Consultant's

proposal in response to the District's Request for Proposals #R-10015 (Materials Testing and Inspection Services). The District relies specifically on Consultant's ability to provide the Services with staff qualified as, and otherwise in the manner, represented in Consultant's proposal. Consultant hereby represents and warrants to provide the Services with staff so qualified as, and otherwise in the manner, represented in the aforementioned proposal, subject to the requirements set forth elsewhere in this Agreement.

9. Renewal Periods

Only the District may exercise the renewal term options and does so by giving Consultant notice no later than 30 days prior to the expiration of the initial term or the renewal option period in effect at the time of the District's intent to extend this Agreement.

10. Prevailing Wages

10.1 Without limiting the generality of Consultant's obligation to comply with all applicable law, Consultant specifically agrees, in compliance with the provisions of the California Labor Code, to pay all workers employed by Consultant in the execution of the Services not less than the general prevailing rate of per diem wages, including payment for travel and subsistence, and not less than the general prevailing rate of per diem wages for holiday and overtime work, as determined by the California State Director of Industrial Relations for each craft, classification or type of worker needed to execute such work. (Information on the prevailing rate of per diem wages and on the District's Labor Compliance Program is available at the following website:
[http://www.laschools.org/contractor/lc/.](http://www.laschools.org/contractor/lc/))

10.2 Consultant agrees further to submit, weekly, certified payroll records, and, where applicable, non-performance payroll records, for Consultant and all Consultant subcontractors, of any tier. Consultant will submit such records to the District's Labor Compliance Department using the District's web-based Certified Payroll Reporting System accessible at: [http://www.laschools.org/fcs/lc/.](http://www.laschools.org/fcs/lc/))

11. Project Stabilization Agreement

11.1 Consultant acknowledges that:

11.1.1 to the extent that Consultant is called upon to provide the Services—

11.1.1.1 on any District project that meets the following criteria:

- a. is for an amount that exceeds a specified monetary threshold and
- b. is funded in whole or in part by Proposition BB, Measure K or later awarded propositions or measures (such as Measure R); and

11.1.1.2 through trades and crafts represented by the union signatories to the "PSA" (defined below),

then those services will be covered by the Project Stabilization Agreement, dated October 1, 2003, into which the District entered with the Los Angeles/Orange County Building and Construction Trades Council and the signatory craft unions (hereinafter, the **“PSA,”** which may be viewed at, and downloaded from: <http://laschools.org/contractor/psa/>); and

11.1.2 The District has designated Parsons Constructors Inc. as the “Project Labor Coordinator” (Dan Sloan, reachable at 626-440-4120 and at dan.sloan@parsons.com, as the contact) to act on behalf of the District as the District’s authorized representative, assisting consultants to comply, and monitoring compliance, with the PSA; and

11.1.3 Building/Construction Inspector and Field Soils and Materials Testers (**“FSMT”**) are a covered craft under the PSA; and

11.1.4 Per the Operating Engineers Union’s December 6, 2001, letter to the California Department of Industrial Relations, and for purposes of the PSA and this Agreement, the services that are provided by an FSMT include, without limitation, “special grading, excavation filling, soils used in construction, concrete sampling, density testing and various types of verification tests”; and

11.1.5 Consultant’s compliance with the PSA would include, among other obligations, Consultant’s:

11.1.5.1 Issuance of a Letter of Assent (in the form of that included among the Supplementary Terms attached to this Agreement as Exhibit F) for each covered District project to which the Consultant is assigned; and

11.1.5.2 Following the PSA guidelines regarding hiring procedures,

11.1.5.3 Making and timely submitting certified payroll reports (as described and provided for in Section 10.2 above,

11.1.5.4 Paying minimum prevailing wages, where applicable (pursuant to Sec. 10.1 above)

11.1.5.5 Executing union participation agreements when appropriate (as specified by the PSA), and

11.1.5.6 Making fringe benefit contributions based upon the certified payroll reports, participation agreements and Letters of Assent.

11.2 To the extent that the Services include the services of a craft covered by the PSA, and the other PSA criteria listed in Section 1 above apply, Consultant agrees to comply with the PSA.

12. Authorized District Representative

This Agreement shall be under the direction and subject to the approval of the Director of Maintenance & Operations Mark Hovatter or his designated representative. The authorized District representative for the Agreement will be:

Doc Nghiem, Supervising Structural Engineer
Los Angeles Unified School District
Maintenance & Operations,
333 South Beaudry, 29th Floor
Los Angeles, CA 90017
213) 241-0810

EXHIBIT B

TERMS AND CONDITIONS

Terms and Conditions
Professional Services Agreement

1. This Agreement is not valid and no payment is authorized hereunder for services prior to approval of the Agreement by the District's Board of Education or Facilities Contract Office, as follows: If the Agreement amount is greater than \$250,000, the Agreement must be approved by the Board of Education prior to the start date. If the Agreement amount is \$250,000 or less, the Agreement must be approved by the Director, Facilities Contracts, or Chief Facilities Executive prior to the start date.
2. **Time for Payments** – Payments of undisputed sums due shall be made by the District within thirty (30) days after receipt by the District of an Invoice for Payment that has been properly and timely prepared and submitted in accordance with this Agreement.
3. **Evaluation** –Consultant acknowledges that the Consultant's performance may be evaluated by the District Authorized Representative or other District representatives and understands that the results of the evaluation will be made available to Consultant. Consultant will be given an opportunity to respond, in writing to the District Authorized Representative with a copy to the District's Director, Facilities Contracts, to any such evaluation results. Consultant agrees to cooperate fully with any such evaluation effort and agrees to promptly furnish any information that is requested by the District for evaluation purposes. Such evaluations and responses may be made available to other offices within the District, other school districts and agencies. In addition, such evaluations are subject to California's Public Records Act.
4. **Independent Contractor** – While engaged in performance of this Agreement, Consultant is an independent contractor and is not an officer, agent, or employee of the District. Consultant is not entitled to benefits of any kind to which District employees are entitled, including, but not limited to, unemployment compensation, workers' compensation, health insurance and retirement benefits. Consultant assumes full responsibility for the acts and/or omissions of Consultant's employees or agents as they relate to performance of this Agreement. Consultant assumes full responsibility for workers' compensation insurance and payment of all federal, state and local taxes or contributions, including, but not limited to, unemployment insurance, social security, Medicare and income taxes with respect to Consultant and Consultant's employees.
5. **Standard of Performance** – All services performed in connection with this Agreement shall be performed in compliance with standards of care applicable to services of the type, scope and complexity assigned to Consultant and in compliance with all applicable laws and codes, including without limitation California licensing laws and lawful orders of governmental authorities.
6. **Conflict of Interest** – Consultant represents that Consultant has no existing financial interest and will not acquire any such interest, direct or indirect, which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be subcontracted in connection with this Agreement, or employed by Consultant. Consultant shall not conduct or solicit any non-District business

while on District property or time.

Consultant will also take all necessary steps to avoid the appearance of a conflict of interest and shall have a duty to disclose to the District prior to entering into this Agreement any and all circumstances existing at such time which pose a potential conflict of interest.

Consultant warrants that it has not directly or indirectly offered or given, and will not directly or indirectly offer or give, to any employee, agent, or representative of the District any cash or non-cash gratuity or payment with view toward securing any business from the District or influencing such person with respect to the conditions, or performance of any Agreements with or orders from the District, including without limitation this Agreement. Any breach of this warranty shall be a material breach of each and every Agreement between the District and Consultant.

As a condition of this Agreement, Consultant agrees to comply with the District's Code of Conduct set forth in the Los Angeles Unified School District Code of Conduct.

Should a conflict of interest issue arise, Consultant agrees to fully cooperate in any inquiry and to provide the District with all documents or other information reasonably necessary to enable the District to determine whether or not a conflict of interest existed or exists.

Failure to comply with the provisions of this section shall constitute grounds for immediate termination of this Agreement, in addition to whatever other remedies the District may have.

7. **Final Payment and Release of Claims** – Consultant's acceptance of final payment by the District hereunder shall constitute a release of all claims by Consultant not identified to date against the District related to the performance of services or payment therefore.
8. **Intellectual Property** – Consultant warrants that all work produced hereunder, whether in written or electronic form, shall be the original work of Consultant unless otherwise expressly stated in writing.

Patent Policy

If Consultant's work produces any invention or discovery (Invention) patentable or otherwise under title 35 of the U.S. Code, including, without limitation, processes and business methods made in the course of work under this Agreement, the Consultant shall report the fact and disclose the Invention promptly and fully to the District. District shall own in perpetuity all patent rights to the Invention and have the exclusive right to use, for any purpose, all information, materials and reports which are provided by Consultant and are developed or written by Consultant during the course of or as a result of the services which provides under this agreement, and the Consultant agrees to assign to the District all right, title and interest in and to all inventions which are conceived or first reduced to practice by Consultant during the course of or as a result of the services which you will provide under this agreement. In this regard, Consultant further agrees to cooperate with District in the preparation, filing and prosecution of any patent application, or in the maintenance of any patent, claiming any such inventions, and to execute any document required to vest title to such invention and such writings in the District.

In consideration of the compensation described in this agreement, Consultant on its behalf and on behalf of its employees agrees to grant, license, release and assign for all time to the District all right, title and interest in all copyrights/patents/intellectual property rights arising out of the services provided for under this agreement.

Copyright Policy

Contractor's work under this agreement is "work for hire" for purposes of the copyright laws of the United States and the rights, interest and title to any copyrightable material produced by Contractor in the course of this agreement will vest with the District in perpetuity. The Consultant acknowledges that it has no right or title to nor interest in its work or product resulting from the Services performed hereunder, or any of the documents, reports or other materials created by the Consultant in connection with such Services, nor any right to or interest in any copyright therein. The Consultant acknowledges that the Services and the products thereof (hereinafter referred to as the "Materials" in this section) have been specially commissioned or ordered by the District as "works made-for-hire" as that term is used in the Copyright Law of the United States, and that the District is therefore to be deemed the author of and is the owner of all copyrights in and to such Materials.

- 1) If for any reason the Materials would not be considered a work made for hire under applicable law, by signing below Consultant sells, assigns, and transfers to District all rights, interest and title to the copyright in the Materials, related registrations and copyright applications, and any related renewals and extensions in perpetuity. This grant of rights and assignment extends to all works based upon, derived from, or incorporating the Materials, to all income, royalties, damages, claims and payments payable now or later, to all causes of action, either in law or in equity for past, present, or future infringement based on the copyrights, and to all corresponding rights throughout the world.
- 2) If the Materials are one to which the provisions of 17 U.S.C. 106A apply, by signing this contract the Author waives and appoints for all time the District to assert on the Consultant's behalf the Consultant's moral rights or any equivalent rights regarding the form or extent of any alteration to the Work (including removal or destruction) or the making of any derivative works based on the Work, including photographs, drawings or other visual reproductions or the Work, in any medium, for District purposes.
- 3) Contractor agrees to execute all papers and to perform other proper acts as District may deem necessary to secure these rights for District or its designee.

9. **Equal Opportunity Employment** – It is the policy of the District that, in connection with all work performed under District Agreements, there shall be no discrimination against any employee or applicant for employment because of race, color, religious creed, national origin, ancestry, marital status, sex, sexual orientation, age, disability or medical condition, and therefore Consultant agrees to comply with applicable Federal and state laws. In addition, Consultant agrees to require like compliance by all Subconsultants employed on the work.

10. **Indemnity** – Consultant will defend, indemnify, and hold the Board of Education of the City of Los Angeles and the Los Angeles Unified School District, their officers, employees, agents, and representatives under the direct control of the District harmless from all claims, causes and allegations (whether threatened or pending), costs, fees and expenses (including attorneys' fees), awards, judgments, damages, losses and liabilities arising out of or relating to Consultant's act or omission in the performance of Consultant's services hereunder.
11. **Assignments** – Neither the performance of this Agreement, nor any part thereof, may be assigned by either party without the prior written consent and approval of the other. Consultant shall not subcontract any services hereunder without the prior written approval of the District. All subcontracted services, once approved, shall be billed by Consultant to the District at direct cost with no additional fees or markup.
12. **Licensing** – Consultant shall comply with all applicable laws and regulations governing Consultant's performance of services hereunder, including without limitation any and all applicable licensing requirements and shall at the District's request provide evidence of such compliance satisfactory to the District.
13. **Certification regarding debarment**, - suspension or ineligibility for award.

By signing this Agreement, Consultant certifies that:

- a) Consultant and any of its principals are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of Agreements by any public agency, and
 - b) Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government Agreement or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.
14. **Failure to provide prompt, efficient and thorough service** – If the District deems Consultant is failing to perform or provide prompt, efficient service or otherwise fails to comply with the terms of this Agreement or fails to complete the services stipulated in Exhibit A with the time limits provided herein, the District shall have the right to terminate or cancel this Agreement, take possession of any items related to this Project and/or Work and proceed in accordance with the provisions below governing suspension or termination of Agreement.

15. Suspension or Termination by the District

- a) Termination for Default – If the District determines that Consultant has failed substantially to perform in accordance with the terms of this Agreement; the District may terminate all or part of the Agreement upon seven (7) days notice to Consultant.
- b) Termination for Convenience - The District may terminate all or part of this Agreement for the District's convenience, and without cause, upon not less than ten (10) days written notice to Consultant, in which case the District will pay Consultant for services rendered and expenses incurred, under the term of this Agreement, through the date of termination.
- c) Suspension - The District may order Consultant to suspend service at no additional cost to the District for no more than ninety (90) consecutive days. If Consultant's services are suspended for more than 90 (ninety) consecutive days, Consultant may terminate this Agreement by giving not less than seven (7) days' written notice.
- d) Termination Payments – The payments, if any, made to Consultant pursuant to this Agreement shall be Consultant's sole and exclusive compensation and the District shall have no liability to Consultant for any other compensation or damages, including without limitation anticipated profit, prospective losses, or consequential damages of any kind.
- e) Work Product – Any provision to the contrary in this Agreement notwithstanding, no payment shall be due Consultant following termination of this Agreement unless and until Consultant provides the District with all documents, materials and work produced to date under this Agreement.

16. Governing Law and Severability – The validity, interpretation and performance of this Agreement shall be determined according to the laws of the State of California. Whenever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid. However, if any provision of this Agreement shall be held to be prohibited by or invalid under any applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remaining provisions of this Agreement.

17. Entire Agreement/Amendment – This Agreement and any exhibits attached hereto constitute the entire agreement between the parties to the Agreement and supersede any prior or contemporaneous written or oral understanding or agreement, and may be amended only by written amendment executed by both parties to this Agreement and approved as required by California law and District policy.

18. Right to Audit – Consultant shall maintain complete and accurate books and records with respect to services, costs, expenses, receipts and other information necessary to verify the scope or charges for any services provided under this Agreement. Consultant understands and agrees that the District has the right to review documents and work in progress and to audit financial and other records pertaining to the performance of the work under this Agreement, whether such records were prepared by Consultant or anyone else associated

with the work. At any time prior to the date which is four (4) years following final payment under this Agreement, Consultant shall provide the District, at the District's reasonable expense, a copy of all such records within ten (10) business days of a written request from the District. At any time prior to the date which is four (4) years following final payment under the Agreement, the District's rights shall also include access at reasonable times to Consultant's facilities for the purpose of interviewing employees and inspecting and copying (at the District's reasonable expense) such books, records, accounts and other material which may be relevant to a matter under investigation. Consultant shall, at no cost to the District, furnish reasonable facilities and assistance for such review and audit. Consultant's failure to provide records or access within the time requested shall preclude Consultant from receiving any payment due under the Agreement until such documents are provided and shall preclude Consultant from receiving any reimbursement from the District of any such copying charges. Consultant agrees to maintain such records for a period of four (4) years following final payment under the Agreement.

Reimbursement - To the extent that an audit by the District, the District's independent auditors, or a designee of any of them, discloses excess charges inaccurately or improperly attributed to this Agreement by Consultant, Consultant agrees to remit the amount of the overpayment to the District within five (5) days after demand.

19. **Cost Principles** – The Consultant agrees that the Agreement Cost Principles and Procedures, 48 CFR Federal Acquisition Regulations Systems, Chapter 1, Part 31 et seq., shall be used to determine the allowability of individual items of cost in determining the fee and billing rates of the Agreement.
20. **No Third Parties** – Nothing contained in this Agreement shall create a contractual relationship with or cause of action in favor of a third party against the District or Consultant.
21. **Change of Legal Entity or Change of Identity** – If any change occurs in the legal entity of Consultant's organization, Consultant shall immediately report such change to the District. The District shall then have the right to terminate or cancel this Agreement, take the work products of this Agreement and pay in accordance with the provisions under Suspension or Termination of Agreement.
22. **Dispute Resolution.** – Any claim, dispute or other matter in question (collectively, "claim") arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration. Any claim not resolved by mediation shall be resolved by arbitration in Los Angeles, California, before a single arbitrator, who shall be an attorney, in accordance with the rules of the American Arbitration Association currently in effect. Joinder of persons not parties to this Agreement is hereby expressly permitted. The parties to any arbitration shall have the right to conduct discovery pursuant to the California Civil Discovery Act of 1986. The award entered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
23. **Disabled Veteran Business Enterprises (DVBE) and Small Business Enterprises (SBE)** – The Education Code Section 17076.11 and the Board of Education of the City of Los Angeles mandate a participation goal of 25% certified small business enterprise (SBE)

participation and 3% Disabled Veteran Business Enterprise (DVBE) participation in contract awards. Consultant shall cooperate with the District as it seeks to increase the SBE and DVBE participation in the total value of this Agreement, on the condition that Subconsultants and material suppliers of all tiers may be counted in achieving each goal, but that amounts passed through SBEs or DVBEs to nonSBE or nonDVBE Subconsultants or material suppliers shall not be counted in achieving the applicable goal unless the same shall be approved by the District (which approval shall not be unreasonably withheld). To this end, Consultant shall inform the District of any consultant or supplier arrangements with certified SBE and DVBE.

24. **Anti-discrimination** – It is the policy of the District that in connection with all services rendered under District Agreements there be no discrimination against any prospective or active employee engaged in such services because of sex, race, color, ancestry, religious creed, national origin, physical disability (including without limitation HIV and AIDS), mental disability, medical condition, age, marital status, sexual orientation, political belief or affiliation, or to deny family care leave, therefore Consultant agrees to comply with applicable Federal and California laws including, but not limited to, Title VII of the Civil Rights Act of 1964, as amended; the Civil Rights Act of 1991; The Americans with Disabilities Act of 1990; Age Discrimination Act of 1975; Rehabilitation Act of 1973 (Section 504); and the California Fair Employment Practice and Housing Act codified in Government Code Sections 12900 to 12996; and Labor Code Section 1735. In addition, Consultant agrees to require like compliance by all consultants and Subconsultants employed by Consultant under the Agreement.
25. **Publicity** – Consultant shall not cause to be published or disseminated any advertising materials, either printed or electronically transmitted, which identify the District or its facilities with respect to this Agreement or any party's duties or benefits hereunder without the prior written consent of the District, which may be withheld in its sole discretion. Consultant shall treat all information and data acquired by it in connection with services hereunder as strictly confidential and shall not disclose same to any other person or entity unless authorized in writing by the District to do so or compelled to do so by judicial or other governmental entity with the authority to require disclosure.
26. **Compliance with Immigration Laws** – Consultant shall comply during the term of this Agreement with the provision of the Immigration Reform and Control Act of 1986 and any regulations promulgated there under. Consultant shall maintain a properly completed Employment Eligibility Certificate (INS Form I-9) for each worker hired by Consultant after November 5, 1986, who performs services under this Agreement
27. **District Approvals** – Approvals or authorization provided for in this Agreement to be given by the District must be given in writing. Any District review or approval of any submissions from Consultant in any medium is for general conformance with the District's requirements, and shall not relieve Consultant of its responsibility for performing services under this Agreement in conformity with the legally mandated standard of care and the terms and conditions of this Agreement.
28. **Key Personnel** – The District in entering into this Agreement has relied upon Consultant's

providing the services of the Key Personnel, if any, identified as such in the body of the Agreement. No Key Personnel may be replaced or transferred without the prior approval of the District's authorized representative. Any Consultant personnel to whom the District objects shall be removed from District work immediately. The District maintains the right to approve in its sole discretion all personnel assigned to the work under this Agreement.

29. **Waiver** – Provisions of this Agreement may be waived by the District only by a written statement expressing that it is intended as a waiver of specified provisions of the Agreement. The District's approval, acceptance use or payment for any part of Consultant's services shall not in any way alter Consultant's obligations, or waive any of the District's rights, under this Agreement.
30. **Fingerprinting** - Consultant, its employees, agents, subconsultants and subconsultant employees who go to school sites when students are present will be required to comply with the requirements of the California Education Code Sections 45125.1 and 45125.2 at no cost to the District. In accordance with Section 45125.1 (d) all personnel going to the school site(s) must submit his or her fingerprints to the California Department of Justice (DOJ) in a manner authorized by the DOJ to determine whether the employee has been arrested or convicted of any crime. All personnel who may come in contact with students must be cleared by DOJ (Section 42125.1(f)). Any person who has been arrested or convicted of any serious or violent felony, as defined by California Penal Code Sections 667.5 and 1192.7 will not be allowed on LAUSD property. The Consultant is responsible for the administration and all costs relating to the fingerprinting and screening by the DOJ of all candidates for positions with the District. Confirmation of the DOJ clearance or confirmation that the fingerprints have been submitted to DOJ must be submitted to the District prior to employees visiting the school site. If the above time requirements cannot be met a letter of explanation must be submitted for the District's approval prior to visiting the school site.

EXHIBIT C

INSURANCE REQUIREMENTS

INSURANCE

Insurance Requirements

1. **Policies, Coverage and Amounts:** Consultant shall obtain the following policies and coverage. Insurance limits may be achieved through a combination of primary and excess policies. The insurance furnished by the Consultant under this Section shall provide coverage in amounts not less than the following:
 - .1 **Commercial General Liability Insurance:** on an occurrence basis, covering work done or to be done by or on behalf of the Consultant and providing insurance for bodily injury, personal injury, property damage, and contractual liability for the Scope of Work. The aggregate limit shall apply separately to the work. Limits of Liability:

\$ 2,000,000.00	General Aggregate
\$ 1,000,000.00	Each Occurrence—combined single limit for bodily injury and property damage.
 - .2 **Business Automobile Liability Insurance:** on an occurrence basis, covering owned, scheduled, hired, and non owned automobiles used by or on behalf of the Consultant and providing insurance for bodily injury, property damage, and contractual liability. Limits of Liability:

\$ 1,000,000.00	Each Accident—combined single limit for bodily injury and property damage.
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 - .3 **Workers' Compensation:** as required under California law including Employers Liability limits of \$1,000,000.00
 - .4 **Professional Liability Insurance** of not less than \$1,000,000 each occurrence. Consultant agrees to maintain professional liability insurance for a period of five years after project completion.
2. **Evidence of Coverage:** The Consultant shall submit to the District certificates of insurance and original endorsements to the policies of insurance required by the agreement as evidence of the insurance coverage. The scope of coverage and deductible shall be shown on the certificate of insurance. The certificates of insurance and endorsements shall provide for no cancellation of coverage without thirty (30) days written notice to the District. Renewal certifications and endorsements shall be timely filed by the Consultant for all coverage until the work is accepted as complete. The District reserves the right to require the Consultant to furnish the District complete, certified copies of all required insurance policies. The Consultant shall notify the District in writing of any material change in insurance coverage.
3. **Insurance Provisions:** The insurance policies shall contain, or be endorsed to contain, the following provisions.

- .1 For the general and automobile liability policies: the Los Angeles Unified School District and Board of Education of the City of Los Angeles, their officers, employees, representatives, volunteers, and agents shall be named as additional insureds.
 - .2 For any claims related to the work, the Consultant's insurance coverage shall be primary insurance as respects the Los Angeles Unified School District and Board of Education of the City of Los Angeles, their officers, employees, representatives, volunteers, and agents. Any insurance or self-insurance maintained by the Los Angeles Unified School District and Board of Education of the City of Los Angeles, their officers, employees, representatives, volunteers, and agents shall be in excess of the Consultant's insurance and shall not contribute with it.
 - .3 Each insurance policy required by this Section shall state that coverage shall not be canceled by either party, except after thirty (30) days prior written notice has been given to the District.
 - .4 Los Angeles Unified School District and Board of Education of the City of Los Angeles, their officers, employees, representatives, volunteers, and agents shall not by reason of their inclusion as additional insureds incur liability to the insurance carriers for payment of premiums for such insurance.
- 4. Acceptability of Insurers:** Insurers shall be admitted by the State of California to transact insurance and shall hold a current A.M. Best's rating of no less than A-VII or equivalent carrier otherwise acceptable to the District.
- 5. Miscellaneous.**
- .1 Any deductible under any policy of insurance required in this Section shall be Consultant's liability (responsibility).
 - .2 Acceptance of certificates of insurance by the District shall not limit the Consultant's liability under the agreement.
 - .3 In the event the Consultant does not comply with these insurance requirements, the District may, at its option, provide insurance coverage to protect the District. The Consultant shall pay the cost of the insurance and, if prompt payment is not received by the insurance carrier from the Consultant, the District may pay for the insurance from agreement sums otherwise due the Consultant.
 - .4 If the District is damaged by the failure of Consultant to provide or maintain the required insurance, the Consultant shall pay the District for all such damages.
 - .5 The Consultant's obligations to obtain and maintain all required insurance are non-delegable duties under this agreement.

- .6 Failure to maintain the insurance and furnish the required certificates or policies may be considered a breach of Agreement by the Consultant and the District may terminate the contact without waiver of any other remedy it may have.

EXHIBIT D

DISTRICT CODE OF CONDUCT



LOS ANGELES UNIFIED SCHOOL DISTRICT
Contractor Code of Conduct
(adopted 11/02, revision effective 11/06)

Preamble

Los Angeles Unified School District's Contractor Code of Conduct was adopted to enhance public trust and confidence in the integrity of LAUSD's decision-making process. This Code is premised on three concepts:

- *Ethical and responsible use of scarce public tax dollars is a critical underpinning of effective government*
- *Contracting integrity and quality of service are the shared responsibilities of LAUSD and our Contractors*
- *Proactive and transparent management of potential ethics concerns improves public confidence*

This Code sets forth the ethical standards and requirements that all Contractors and their Representatives shall adhere to in their dealings with or on behalf of LAUSD. Failure to meet these standards could result in sanctions including, but not limited to, voidance of current or future contracts.

1. Contractors

All LAUSD Contractors and their Representatives are expected to conduct any and all business affiliated with LAUSD in an ethical and responsible manner that fosters integrity and public confidence. A "Contractor" is any individual, organization, corporation, sole proprietorship, partnership, nonprofit, joint venture, association, or any combination thereof that is pursuing or conducting business with and/or on behalf of LAUSD, including, without limitation, consultants, suppliers, manufacturers, and any other vendors, bidders or proposers. A Contractor's "Representative" is also broadly defined to include any subcontractors, employees, agents, or anyone else who acts on a Contractor's behalf.

2. Mission Support

LAUSD relies on Contractors and their Representatives to support our LAUSD mission statement of *"educating students to a higher level of achievement that will enable them to be responsible individuals and productive members of the greater society."* Contractors and their Representatives must provide high-value products, services and expertise which advance LAUSD's mission or provide mission-related benefits that support our goals for the students, employees, stakeholders, and the communities we serve.

3. Ethical Responsibilities

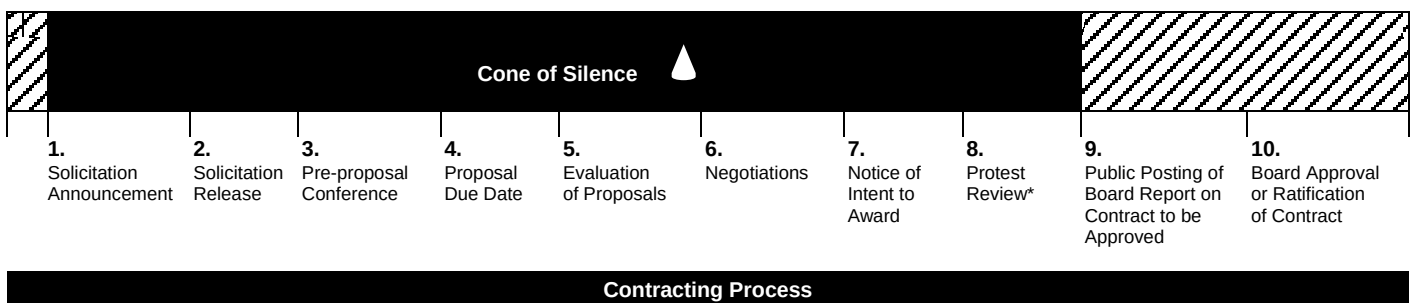
All LAUSD contracts must be developed and maintained within an ethical framework. LAUSD seeks to promote public trust and confidence in our contracting relationships and we expect every individual, regardless of position or level of responsibility, who is associated with an LAUSD procurement process or contract, to commit to exemplifying high standards of conduct in *all phases* of any relationship with LAUSD.

Given that the business practices and actions of Contractors and their Representatives may impact or reflect upon LAUSD, strict observance with the standards in this Code, all applicable local, state and federal laws, and any other governing LAUSD policies or agreements is not only a minimum requirement for all Contractors and their Representatives, but an ethical obligation as well.

In addition to any specific obligations under a Contractor's agreement with LAUSD, all Contractors and their Representatives shall comply with the following requirements:

- A. *Demonstrate Honesty and Integrity* – Contractors shall adhere to the highest standards of honesty and integrity in all their dealings with and/or on behalf of LAUSD. As a general rule, Contractors must exercise caution and avoid *even the appearance of impropriety or misrepresentation*. All communications, proposals, business information, time records, and any other financial transactions must be provided truthfully, accurately, and completely.
- B. *Be a Responsible Bidder* – Contractors shall demonstrate a record of integrity and business ethics in accordance with all policies, procedures, and requirements established by LAUSD.
 - (1) *Critical Factors* – In considering a Contractor's record of integrity and business ethics, LAUSD may consider factors including, but not limited to: criminal investigations, indictments, injunctions, fines, convictions, administrative agreements, suspensions or debarments imposed by other governmental agencies, tax delinquencies, settlements, financial solvency, past performance, prior determinations of failure to meet integrity-related responsibilities, and violations by the Contractor and its Representatives of any LAUSD policies and Codes in prior procurements and contracts. LAUSD reserves the right to reject any bid, proposal and contract, and to impose other sanctions against Contractors who fail to comply with our district policies and requirements, or who violate the prohibitions set forth below in Section 6, Prohibited Activities.
- C. *Maintain the Cone of Silence* – Contractors shall maintain a Cone of Silence during required times of the contracting process to ensure that the process is shielded from even the appearance of undue influence. Contractors and their Representatives risk disqualification from consideration and/or other penalties outlined in Section 8, Enforcement Provisions, if they engage in prohibited communication during the restricted period(s).
 - (1) *Competitive Contracting Process* – To ensure a level playing field with an open and uniform *competitive* contracting process, Contractors and their Representatives must maintain a Cone of Silence from the time when an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Interest and Bid (RFIB), Request for Quote, Request for Qualification, or any other solicitation release is announced until the time a contract award recommendation is made public by the Board Secretariat's posting of the board report for the contract to be approved. During the time under the Cone of Silence, Contractors and their Representatives are prohibited from making any contact on any part of a proposal, negotiation or contract with any LAUSD official as this could appear to be an attempt to curry favor or influence. An "LAUSD official" is broadly defined to include "any board member, employee, consultant or advisory member of LAUSD" who is involved in making recommendations or decisions for LAUSD.

Schematic of LAUSD's Competitive Contracting Process (Illustrative Only)



Lobbying in this period may require registration and disclosure in LAUSD's Lobbying Disclosure Program, if the triggers are met.

* Note: Protests can sometimes extend past the contract approval process

(a) *Prohibited Communication* – Examples of prohibited communication by Contractors and their Representatives under the Cone of Silence include, but are not limited to:

- (i) contact of LAUSD Officials, including members of the department initiating a contract, or members who will serve on an evaluation team for any contract information that is not uniformly available to all other bidders, proposers or contractors;
 - (ii) contact of LAUSD Officials, including Board Members and their staff, to lobby on any aspect relating to a contract matter under consideration, negotiation, protest or dispute;
 - (iii) contact of LAUSD Officials in the particular department requesting a competitive contract to discuss other business or partnership opportunities.
- (b) Exceptions – The following are exceptions to the Cone of Silence:
- (i) open and uniform communications which are made as part of the procurement process such as the pre-bid or pre-proposal meetings or other exchanges of information which are given to all proposers;
 - (ii) interviews or presentations to evaluation committee members which are part of the procurement process;
 - (iii) clarification requests made in writing, under the terms expressly allowed for in an LAUSD contracting document, to the appropriate designated contract official(s);
 - (iv) negotiations with LAUSD's designated negotiation team members;
 - (v) protests which follow the process outlined by LAUSD's protest policies and procedures; and
 - (vi) requests for technical assistance approved by LAUSD contract officials (for example questions relating to LAUSD's Small Business Enterprise Program, or requests for formal guidance on ethics matters from the Ethics Office).
- (2) Non-Competitive Contracting Process – To ensure the integrity of the non-competitive contracting process, Contractors and their Representatives must maintain a Cone of Silence from the time when a proposal is submitted to LAUSD until the time the contract is fully executed. During this designated time, Contractors and their Representatives are prohibited from making any contact with LAUSD officials on any of the terms of the contract under consideration as this could appear to be an attempt to curry improper favor or influence. The only exceptions to this Cone of Silence are clarification requests made with the Contract Sponsor or the appropriate designated contract official(s) in the Procurement Services Group or Facilities Contracts Branch.

Examples of Maintaining the Cone of Silence

- (3) Mai Vien Da is the CEO of a firm that wants to do business with LAUSD. She is at a party when she sees the head of the LAUSD division that has just issued an RFP that her company is interested in bidding on.

Mai can say "hello," but she must not discuss her proposal or the contracting process at all with the division head.

- (4) Mai is also interested in having her sales team meet with LAUSD officials district-wide to promote her firm's services, so that they can sell work on smaller projects that do not need to be competitively bid.

Mai and her employees may attempt to meet with district officials to discuss potential services outside of a competitive process, but she needs to recognize that her marketing activities may require her to register her firm and her employees in LAUSD's Lobbying Disclosure Program. (See Section 5, Disclosure Obligations).

- D. *Manage Potential Conflicts* – Contractors shall disclose all potential or actual conflicts to LAUSD on an ongoing basis with a Meaningful Conflict Disclosure. A "Meaningful Conflict Disclosure" is a written statement to LAUSD which lays out full, accurate, timely, and understandable information with regard to any potential conflicts involving Contractors and their work for LAUSD. The specific requirements for a Meaningful Conflict Disclosure are set forth in Section 3.D.(2) below. LAUSD relies on these proactive disclosures by Contractors to manage potential conflicts before they become actual conflicts of interest. A potential for conflict is present whenever a situation arises which creates a real or apparent advantage or a competing professional or personal interest for a Contractor. Such situations become conflicts of interest, if appropriate safeguards are not put into place. Examples of potential or actual conflicts include, but are not limited to situations when:

- a financial relationship (income, stocks, ownership, investments, loans, excessive gifts, etc.) or close personal relationship exists or has existed between a Contractor or its Representatives and a LAUSD official;
- a financial or close personal relationship exists between any officers, directors or key employees of a Contractor or its Representatives and a LAUSD official;
- a prior, current or potential employment relationship exists between a Contractor or its Representatives and a current or former LAUSD official;
- an overlap exists between work that a Contractor or its Representative performs or has performed for LAUSD and work he or she will perform on behalf of another client; or
- an opportunity arises in which a Contractor or its Representative can make a governmental decision within the scope of LAUSD contractual duties that impacts his or her personal financial interests or relationships,

Contractors and their Representatives have a *continuing* obligation to advise LAUSD proactively of any potential conflicts which may arise relating to a contract.

- (1) State Conflict Standards – LAUSD is generally prohibited by California’s Political Reform Act (Government Code Section 87100) and Government Code Section 1090 from contracting with Contractors if the Contractors, their Representatives, their officers, or any household member of the preceding serve LAUSD in any way in developing, awarding, or otherwise participating in the making of the same contract.

California law also governs situations in which there has been a financial interest between a Contractor and a public official within a 12-month window leading up to a governmental decision. It does not matter whether the impact of an existing relationship is beneficial or detrimental to the interests of the Contractors, their Representatives, or the public agency. Moreover, Government Code Section 1090 defines “making a contract” broadly to include actions that are preliminary or preparatory to the selection of a Contractor such as but not limited to: involvement in the reasoning, planning, and/or drafting of scopes of work, making recommendations, soliciting bids and requests for proposals, and/or participating in preliminary discussions or negotiations.

Any contract made in violation of Section 1090 is void and cannot be enforced. When Section 1090 is violated, a government agency is not obligated to pay the Contractor for any goods or services received under the void contract. In fact, the agency can also seek repayment from the Contractor of any amounts already paid and the agency can refer the matter to the appropriate authorities for prosecution.

- (2) Meaningful Conflict Disclosure – Contractors shall provide a meaningful disclosure of all potential and actual conflicts in a written statement to the LAUSD Contract Sponsor, the Ethics Office and the contracting contact from the Procurement Services Group/or the Facilities Contracts Branch. This disclosure requirement is a continuing duty on all Contractors. At a minimum, a Meaningful Conflict Disclosure must identify the following:
 - (a) names and positions of all relevant individuals or entities;
 - (b) nature of the potential conflict, including specific information about the financial interest or relationship; and
 - (c) a description of the suggested remedy or safeguard for the conflict.
- (3) Resolution of Conflicts – When necessary, LAUSD will advise Contractors on how a disclosed conflict should be managed, mitigated or eliminated. The Contract Sponsor, in consultation with the Procurement Services Group/Facilities Contracts Branch, the Ethics Office, and the Office of the General Counsel, shall determine necessary actions to resolve any of the Contractors’ disclosed conflict(s). When it is determined that a conflict must be addressed, a written notification will be made to the Contractor, indicating the actions that the Contractor and LAUSD will need to take to resolve the conflict.

Examples of Managing Potential Conflicts

- (4) Rhoda Warrior is a consultant from Global Consulting Firm. She has been assigned by her firm to do work for a particular LAUSD department. Although she does not directly work with him, her husband, Antonio, is one of the senior officials in that department.

Global Consulting must disclose this potential problem via a Meaningful Conflict Disclosure to LAUSD. Depending on the exact nature of her work within that department, Global Consulting and the LAUSD Contract Sponsor may need to take steps to safeguard Rhoda's work from any actual conflict of interest.

- (5) Amartya Singh is a HR consultant from the Tip Top Talent Agency whose firm is providing temporary support to help LAUSD improve its recruitment efforts. Amartya is himself serving as acting deputy director for the HR division, and in that capacity has been asked to review and approve all bills for the department. In doing his work, Amartya comes across a bill for the Tip Top Talent Agency which requires approval.

Tip Top Talent Agency must disclose the conflict and work with LAUSD to ensure that someone more senior or external to Amartya's chain-of-command is the one that reviews, evaluates, or approves bills relating to Tip Top Talent Agency. Even if Amartya decides to quit Tip Top Talent to join LAUSD, he cannot be involved with matters relating to Tip Top Talent until 12 months have passed from the date he received his last payment from the firm.

- (6) Greta Planner is a technology consultant that has been hired to design all the specifications for a group of new technology labs. One of the services that Greta will be specifying is an automated wireless projection system. As it turns out, Greta owns direct stock in a firm that manufactures these types of projection systems.

Greta's direct stock ownership constitutes a financial interest in that company. She must disclose the potential conflict right away in writing to the LAUSD Contract Sponsor, so that the appropriate safeguards can be put in place to prevent any actual conflict.

- E. *Provide Contracting Excellence* – Contractors are expected to deliver high quality, innovative and cost-effective goods and services to LAUSD, so that the public is served with the best value for its dollars.
- F. *Promote Ethics Standards* – Contractors shall be responsible for ensuring that their Representatives, regardless of position, understand and comply with the duties and requirements outlined in this Code and to ensure that their behavior, decisions, and actions demonstrate the letter and spirit of this Code. Contractors may draw upon the resources provided by LAUSD, including but not limited to those made available by the Ethics Office, the Procurement Services Group, and the Facilities Contracts Branch. Such training resources and additional information about LAUSD policies can be found on LAUSD's website (www.lausd.net).
- G. *Seek Advice* – Contractors are expected and encouraged to ask questions and seek formal guidance regarding this Code or other aspects of responsible business conduct from the LAUSD Ethics Office whenever there is a doubt about how to proceed in an ethical manner. A Contractor's proactive management of potential ethics concerns is necessary and vital since this Code does not seek to address or anticipate all the issues that may arise in the course of seeking or doing business with LAUSD.

Example of Seeking Advice

- (1) Abe Iznismann is President of Accelerated Sciences, a new company that makes supplemental teaching tools in the sciences. Over the summer, Abe hired Grace Principle, a seasoned LAUSD administrator who now works in teacher recruitment, to consult with Accelerated Sciences in developing a cutting-edge learning tool. Originally, the company planned to sell the products only to schools in other states, but now it wants to sell the products in California and possibly to LAUSD. Abe wants to work with Grace to develop a win-win strategy for offering the new tools to LAUSD at a discount.

Accelerated Sciences needs to be very careful to ensure that Grace is not involved in any aspect relating to selling the product to LAUSD, especially since Grace has a financial interest with the firm. Remember, under California law, the mere existence of a financial interest creates a concern that will cause the good faith of any acts to be questioned, no matter how conscientious the individuals. Before undertaking any effort to sell to LAUSD, Abe or another manager at

Accelerated Sciences should seek out advice on other safeguarding measures to ensure that their good intentions do not inadvertently create a bad outcome for the firm or Grace.

4. Relationship Management

LAUSD expects Contractors and their Representatives to ensure that their business dealings with and/or on behalf of LAUSD are conducted in a manner that is above reproach.

- A. *Employ Good Practices* – Contractors and their Representatives shall conduct their employment and business practices in full compliance with *all* applicable laws, regulations and LAUSD policies, including but not limited to the following:
 - (1) *Equal Employment Opportunity* – Contractors shall ensure that there is no discrimination in hiring due to race, color, religious creed, national origin, ancestry, marital status, gender, sexual orientation, age, or disability.
 - (2) *Health and Safety* – Contractors shall provide a safe and healthy work environment and fully comply with all applicable safety and health laws, regulations, and practices.
 - (3) *Drug Free Environment* – Contractors shall ensure that there is no manufacture, sale, distribution, possession or use of illegal drugs or alcohol on LAUSD-owned or leased property.
 - (4) *No Harassment* – Contractors shall not engage in any sexual or other harassment, physical or verbal abuse, or any other form of intimidation.
 - (5) *Sweat-Free Conditions* – Contractors shall ensure that no child and/or forced or indentured labor is used in their supply chain. Contractors shall require that all goods provided to LAUSD are made in compliance with the governing health, safety and labor laws of the countries of origin. Additionally, Contractors shall ensure that workers are free from undue risk of physical harm or exploitation and receive a non-poverty wage.
- B. *Use Resources Responsibly* – Contractors and their Representatives shall use LAUSD assets for LAUSD business-related purposes only unless given written permission for a specific exception by an authorized LAUSD official. LAUSD assets include: time, property, supplies, services, consumables, equipment, technology, intellectual property, and information.
- C. *Protect Confidentiality* – Contractors and their Representatives shall protect and maintain confidentiality of the work and services they provide to LAUSD. All communications and information obtained in the course of seeking or performing work for LAUSD should be considered confidential. No confidential information relating to LAUSD should ever be disclosed without express authorization by LAUSD in writing, unless otherwise legally mandated.
- D. *Guard the LAUSD Affiliation* – Contractors and their Representatives shall be cautious of how they portray their relationship with LAUSD to the Public. Communications on behalf of LAUSD can only be made when there is express written permission by an LAUSD official authorized by LAUSD's Office of General Counsel.
 - (1) *LAUSD Name and Marks* – Contractors shall ensure that all statements, illustrations or other materials using or referencing LAUSD or its marks and logos—including the names and logos of any of our sub-divisions, and/or any logos created by and for LAUSD—receive advance review and written approval of the relevant LAUSD division head prior to release or use.
 - (2) *Commercial or Advertising Message* – Contractors shall ensure that no commercial or advertising message, or any other endorsements—express or implied—are suggested or incorporated in any products, services, enterprises or materials developed for/or relating to LAUSD unless given written permission to do otherwise by LAUSD's Board of Education.
- E. *Respect Gift Limits* – Contractors and their Representatives shall abide by LAUSD's gift limits and use good judgment, discretion and moderation when offering gifts, meals or entertainment or other business courtesies to LAUSD officials, so that they do not place LAUSD officials in conflict with any specific gift restrictions:
 - (1) No Contractor or their Representative shall offer, give, or promise to offer or give, directly or indirectly, any money, gift or gratuity to any LAUSD procurement official at any time.

- (2) No Contractor or their Representative shall offer or give, directly or indirectly, any gifts in a calendar year to an LAUSD Official which exceed LAUSD's allowable gift limit.

Example of Respecting Gift Limits

- (3) It's the holidays and Sue Tienda, a Contractor, wants to take a few LAUSD officials out to lunch and to provide them with gift baskets as a token of thanks for the work they have done together.

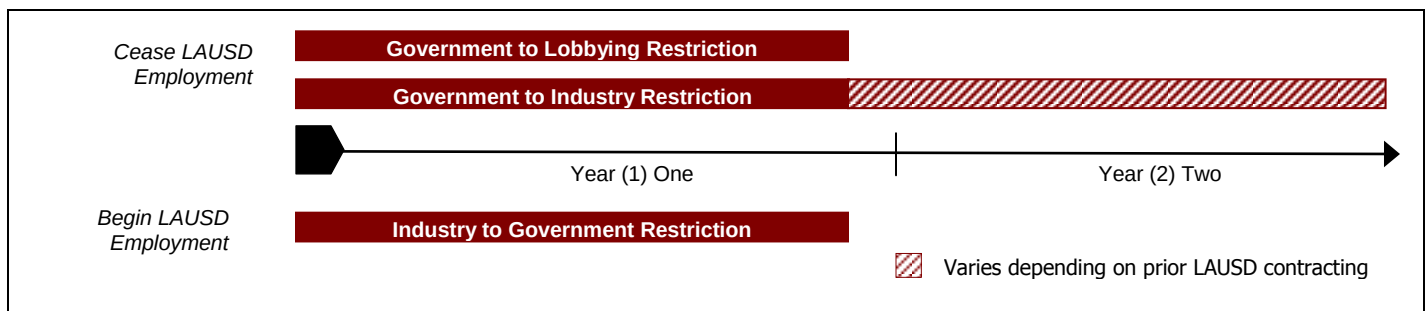
Assuming Sue is not attempting to take out any procurement officials (since they observe a zero tolerance policy on gifts), Sue needs to respect the Board-established gift limit for LAUSD officials. Sue should also be aware that giving a gift totaling over \$50 in a year to LAUSD officials will create a reporting responsibility for the officials, if they are designated Form 700 Statement of Economic Interest filers. Additionally, if there is a procurement underway involving Sue or her firm, she should not give gifts to the LAUSD officials who are part of the evaluation process until the contract is awarded. Finally, Sue may also want to keep in mind that a nice personalized thank-you note can pack quite a punch!

Anyone doing business with LAUSD shall be charged with full knowledge that LAUSD's contracting decisions are made based on quality, service, and value. LAUSD does not seek any improper influence through gifts or courtesies.

- F. **Observe Cooling Periods** – Contractors and their Representatives shall observe and maintain the integrity of LAUSD's Cooling Periods. A "Cooling Period" is a mechanism used by public agencies and private organizations across the country to ensure that no unfair competitive advantage is extended due to the hiring of current or former employees. Allowing for some time to pass before a former official works on matters related to their prior agency or a new official works on matters related to their prior employer helps to mitigate concerns about the appearance of a "revolving door" where public offices are sometimes seen to be used for personal or private gain.

Contractors shall certify that they are upholding LAUSD's revolving door provisions as part of the contracting process. In their certification, Contractors shall detail the internal firewalls that have been put in place to preserve LAUSD's cooling periods. As with other public agencies, LAUSD observes three key types of cooling periods for safeguarding the critical transitions between public service and private industry:

Figure 2 – Schematic of LAUSD Cooling Periods (Illustrative Only)



- (1) **Government to Lobbying Restriction (One-Year Cooling Period)** – LAUSD will not contract with any entity that compensates a former LAUSD official who lobbies LAUSD before a one (1) year period has elapsed from that official's last date of employment

Example of Lobbying Restriction

Ace Impact Group wants to hire Joe Knowsfolks, a former LAUSD official, to help the company cultivate new business opportunities with LAUSD and arrange meetings with key LAUSD officials.

To avoid the possibility of unfair advantage or improper influence, Ace Impact Group is prohibited from utilizing Joe to contact anyone at LAUSD on their behalf until at least one

year has passed from Joe's last date of employment. Joe may help Ace lobby other public entities, but Joe cannot communicate with anyone at LAUSD, either in person or in writing, on behalf of his new company.

(2) Government to Industry Restriction

- (a) Insider Advantage Restriction (One-Year Cooling Period) – LAUSD will not contract with any entity that compensates any current or former LAUSD official to work on a matter with LAUSD, if that official, within the preceding 12 months, held a LAUSD position in which they personally and substantially participated in that matter.

Example of Insider Advantage Restriction

Risky Business is a small boutique firm that helps public agencies, including LAUSD, develop strategies for managing and overcoming their unfunded liability. Risky Business wants to extend an offer of employment to Nooriya, a LAUSD official, whose previous responsibilities included advising LAUSD's Board and management on the issue of the district's unfunded liability.

As part of its certification, Risky Business needs to identify what safeguards it will have in place to ensure that Nooriya's work for them does not include matters relating to her prior LAUSD responsibilities for at least one year from when she left her LAUSD job. Given that "matters" include broad policy decisions, the general rule of thumb for avoiding any insider advantage is to have former LAUSD officials steer clear of LAUSD work for a year.

- (b) Contract Benefit Restriction (Two-Year Cooling Period) – LAUSD will not contract with any entity that employs any current or former LAUSD official who within the preceding two (2) years, substantially participated in the development of the contract's RFP requirements, specifications or any part of the contract's procurement process, if the official will perform any services for the Contractor relating to LAUSD on that contract.

Example of Contracting Benefit Restriction

Technology Advances has just won a big contract with LAUSD and is looking for talent to help support the company's growing work load. The firm wishes to hire some LAUSD employees: Aisha, a LAUSD technology official, her deputy Raj who was the individual who oversaw LAUSD's contracting process with Technology Advances, and Linda, an engineer who was on the evaluation committee that selected Technology Advances.

If Technology Advances hires any of these individuals, none may perform any work for the firm relating to this LAUSD work until two years have elapsed from the date that the contract was fully executed. This case is a good example of how the cooling period seeks to ensure that there is no benefit resulting from a public official's awarding of a contract. All of the LAUSD employees in this example would be considered to have substantially participated in the contract – Raj due to his direct work, Linda due to her role evaluating the bid proposals, and Aisha due to the fact that supervising both employees is a part of her official responsibility. Technology Advances should consider the implications before hiring individuals involved with their LAUSD contracting process.

- (3) Industry to Government Restriction (One-Year Cooling Period) – In accordance with California law, Contractors and/or their Representatives who act in the capacity of LAUSD officials shall be disqualified from making any governmental decisions relating to a personal financial interest until a 12-month period has elapsed from the time the interest has been disposed or severed.

Example of Industry to Government Restriction

Sergei Konsultantov is an outside contractor that has been hired to manage a major reorganization project for LAUSD. Sergei is on the Board of Directors for several companies who do business with LAUSD.

Sergei must not participate in any governmental decisions for LAUSD relating to any private organization for whom he has served as an employee, officer, or director, even in an unpaid capacity, if less than 12 months has passed since he held such a status. Sergei should contact the Ethics Office before starting his work to put a formal disqualification into effect and to seek out any other ethical safeguards he should have in place.

- (4) In rare and unusual circumstances, LAUSD's General Superintendent or his/her designee upon a showing of good cause may waive the Insider Advantage Restriction in writing with notification to the Board of Education, *prior* to approving a contract or its amendment.

- G. *Safeguard Prospective Employment Discussions* – Contractors and their Representatives shall safeguard any prospective employment discussions with current LAUSD officials, especially when the official is one who may participate “personally and substantially” in a matter relating to the Contractor.

Example of Safeguarding an Employment Offer

- (1) Audit Everything, a firm that does work for LAUSD, has been really impressed by Thora Revue, an audit manager that oversees some of their audits. Audit Everything is interested in having Thora work for their firm.

Before Audit Everything begins any prospective discussions with Thora, they should let her supervisor know of their interest and ask what safeguards need to be put in place. For example, if Thora does not outright reject the idea and is instead interested in entertaining the offer, she and her manager will have to work with the Ethics Office to put into effect a disqualification from any further involvement relating to the Contractor before any actual employment discussions are allowed to proceed. Any Contractor who engages in employment discussions with LAUSD officials before a disqualification has been completed is subject to the penalties outlined in this Code.

- H. *Conduct Political Activities Privately* – Contractors and their Representatives shall only engage in political support and activities in their own personal and voluntary capacity, on their own time, and with their own resources.

- I. *Make Philanthropy Voluntary* – Contractors and their Representatives shall only engage in philanthropic activities relating to LAUSD on their own time and with their own resources. LAUSD views philanthropic support as a strictly voluntary opportunity for Contractors to demonstrate social responsibility and good citizenship. No expressions of support should be construed to have a bearing on current or future contracts with LAUSD. And no current or potential contracting relationship with LAUSD to provide goods or services is contingent upon any philanthropic support from Contractors and their Representatives, unless otherwise designated as part of a bid or proposal requirement in an open, competitive contracting process to solicit a specific type of support.

- (1) *Guidelines for Making a Gift to a Public Agency* – Contractors who wish to provide philanthropic support to LAUSD shall abide by the ethical and procedural policies and requirements established by LAUSD which build upon the “Gifts to an Agency” requirements established in California’s Code of Regulations Section 18944.2. For outside entities to make a gift or payment to LAUSD in a manner that maintains public integrity, the following minimum requirements must be met:

- (a) LAUSD must receive and control the payment;
- (b) LAUSD must use the payment for official agency business;
- (c) LAUSD, in its sole discretion, must determine the specific official or officials who shall use the payment. The donor may identify a specific purpose for the agency’s use of the payment, so long as the donor does not designate the specific official or officials who may use the payment; and
- (d) LAUSD must have the payment memorialized in a written public record which embodies the requirements of the above provisions and which:
 - Identifies the donor and the official, officials, or class of officials receiving or using the payment;

- Describes the official agency use and the nature and amount of the payment;
- Is filed with the agency official who maintains the records of the agency's Statements of Economic Interests (i.e. the Ethics Office); and
- Is filed as soon as possible, but no later than 30 days of receipt of the payment by LAUSD.

5. Disclosure Obligations

LAUSD expects Contractors and their Representatives to satisfy the following public disclosure obligations:

- A. *Identify Current and Former LAUSD Officials* – To ensure against conflict or improper influence resulting from employment of current or former LAUSD employees, Contractors and their Representatives shall disclose any of their employees, subcontractors or consultants who within the last three years have been or are employees of LAUSD. The disclosure will be in accordance with LAUSD guidelines and will include at a minimum the name of the former LAUSD employee(s), a list of the LAUSD positions the person held in the last three years, and the dates the person held those positions. Public agencies that provide contract services are not subject to this requirement.
- (1) In rare and unusual circumstances, LAUSD's General Superintendent or his/her designee upon a showing of good cause may waive this disclosure requirement in writing with notification to the Board of Education, *prior* to approving a contract or its amendment.
- B. *Be Transparent about Lobbying* – Contractors and their Representatives shall abide by LAUSD's *Lobbying Disclosure Code* and register and fulfill the associated requirements, if they meet the trigger(s). LAUSD's lobbying policy seeks to enhance public trust and confidence in the integrity of LAUSD's decision-making process by providing transparency via a public record of the lobbying activities conducted by individuals and organizations. A "lobbying activity" is defined as any action taken with the principal purpose of supporting, promoting, influencing, modifying, opposing, delaying or advancing any rule, resolution, policy, program, contract, award, decision, or other proposal under consideration by LAUSD officials.

For further information on LAUSD's lobbying policy, Contractors and their Representatives shall review the resource materials available on the Ethics Office website (www.lausd.net/ethics). Failure to comply with LAUSD's Lobbying Disclosure Code can result in fines and sanctions including debarment from contracting with LAUSD.

- C. *Fulfill the State-Mandated Statement of Economic Interests ("Form 700") Filing Requirement* – Contractors and their Representatives shall abide by the financial disclosure requirements of California's Political Reform Act (Gov. Code Section 81000-91015). Under the Act, individual Contractors and their Representatives may be required to disclose economic interests that could be foreseeably affected by the exercise of their public duties in a disclosure filing called the Statement of Economic Interests or Form 700. A Form 700 serves as a tool for aiding public officials at all levels of government to ensure that they do not make or participate in making, any governmental decisions in which they have an interest.
- (1) *Applicability* – Under the law, individual Contractors and their Representatives are considered public officials and need to file a Form 700 as "consultants", if the services they are contracted to provide fit the triggers identified by the Political Reform Act. Meeting either of the test triggers below requires a Contractor's Representative(s) to file a Form 700:
- (a) *Individual Makes Governmental Decisions* – Filing is required if an individual is involved in activities or decision-making such as: obligating LAUSD to any course of action; authorizing LAUSD to enter into, modify, or renew a contract; granting approval for contracts, plans, designs, reports, studies or other items; adopting or granting approval on policies, standards or guidelines for any subdivision of LAUSD; or negotiating on behalf of LAUSD without significant intervening review.
- (b) *Individual Participates in the Making of Governmental Decisions for LAUSD and Serves in Staff-like Capacity* – Filing is also required if an individual is performing duties for LAUSD on a continuous or ongoing basis extending beyond one year such as: advising or making recommendations to

LAUSD decision makers without significant intervening review; conducting research or an investigation; preparing a report or analysis which requires the individual to exercise their judgment; or performing duties similar to an LAUSD staff position that is already designated as a filer position in *LAUSD's Conflict of Interest Code*.

(2) Filing Timelines – Individuals who are legally required to complete a Statement of Economic Interests form must submit a filing:

- (a) upon commencement of work with LAUSD,
- (b) on an ongoing basis thereafter in accordance with the April 1st annual deadline, and
- (c) upon termination of work with LAUSD.

(3) Process – Contractors and their Representatives shall coordinate with their LAUSD Contract Sponsor(s) to ensure that they meet this state mandate in the manner required by law. Form 700s must be received by the LAUSD Ethics Office to be considered properly filed in accordance with the Political Reform Act.

(4) Disqualifications – Individuals who must file financial disclosure statements are subject to the requirements of the Political Reform Act as is the case with any other “public official” including disqualification when they encounter decision-making that could affect their financial interests. Contractors and their Representatives shall be responsible for ensuring that they take the appropriate actions necessary, so as not to violate any aspect of the Act.

Examples of Form 700 Filers and Non-Filers

(5) Maria Ley is an attorney for the firm of Legal Eagles which serves as outside counsel to LAUSD. In her capacity as outside counsel, Maria provides ongoing legal services for LAUSD and as such participates in the making of governmental decisions. Maria's role involves her in advising or making recommendations to government decision-makers and also gives her the opportunity to impact decisions that could foreseeably affect her own financial interests.

Maria would be considered a consultant under the Political Reform Act and would need to file a Form 700.

(6) The Research Institute has been hired by LAUSD to do a major three-year policy study which will help LAUSD decide the shape and scope of a major after-school tutoring initiative, including the total funding that should be allocated. As part of the Institute's work, their researchers will help LAUSD design and decide on some additional contracts for supplemental survey research. The Institute knows that all the principal researchers on their team will have to be Form 700 filers because their work is ongoing and will influence LAUSD's governmental decision. However, the Institute is unsure of whether their trusty secretary, Bea Addman, would have to be a filer.

Bea does not need to file. Even though she will be housed at LAUSD for the three years and act in a staff-like capacity, she will provide clerical support primarily and will not participate in making any governmental decisions.

(7) Bob Builder works for a construction company that will be supporting LAUSD's school-building initiative on a continuous basis. Bob will direct activities concerning the planning and construction of various schools facilities, coordinate land acquisition, supervise teams, set policies, and also prepare various budgets for LAUSD.

Bob meets the trigger defined under the law because as part of the services he will provide, he has the authority to affect financial interests and commit LAUSD to government actions at his discretion. Additionally, in his role, he will be performing essentially the same tasks as an LAUSD Facilities Project Manager which is a position that is already designated in LAUSD's Conflict of Interest Code. Therefore, Bob is required to file a Form 700.

6. Prohibited Activities

A Contractor, its Representative(s) and all other agent(s) acting on its behalf are prohibited from engaging in the following activities:

GENERAL PROHIBITIONS

- A. *Acting in a manner that would be reasonably known to create or lead to a perception of improper conduct that could result in direct or indirect damage to LAUSD or our reputation*
- B. *Acting with the purpose or intent of placing an LAUSD official under personal obligation to any Contractor or its Representatives*
- C. *Conducting business with or on behalf of LAUSD in a manner that would be reasonably known to create or lead to a perception of self-dealing*
- D. *Conducting work on behalf of another client on a matter that would be reasonably seen as in conflict with work performed for LAUSD*
- E. *Disclosing any proprietary or confidential information, including employee or student health information, about LAUSD, our employees, students, or contractors to anyone not authorized by a written LAUSD re-disclosure agreement to receive the information*
- F. *Knowingly deceiving or attempting to deceive an LAUSD official about any fact pertaining to any pending or proposed LAUSD decision-making*
- G. *Making or arranging for any gift(s) or gratuities that violate LAUSD's policies, including:*
 - (1) Providing any gifts at all to a procurement employee;
 - (2) Providing any gifts in excess of LAUSD's gift limit in a calendar year to any LAUSD official or to a member of his/her household; and
 - (3) Providing gifts without the necessary public disclosure when disclosure is required
- H. *Offering any favor, gratuity, or kickback to an LAUSD official for awarding, modifying, or providing preferential treatment relating to an LAUSD contract*
- I. *Receiving or dispersing compensation contingent upon the defeat, enactment, or outcome of any proposed policy or action*
- J. *Taking any action to circumvent LAUSD's system of controls or to provide misleading information on any documents or records*
- K. *Using LAUSD assets and resources for purposes which do not support LAUSD's work*
- L. *Using LAUSD provided technology or systems to create, access, store, print, solicit or send any material that is false, derogatory, malicious, intimidating, harassing, threatening, abusive, sexually explicit or otherwise offensive*
- M. *Violating or counseling any person to violate any provisions of LAUSD's Contractor Code of Conduct, Lobbying Disclosure Code, Employee Code of Ethics, and/or any other governing state or federal laws*

CONTRACTING PROHIBITIONS

- N. *Dealing directly with an LAUSD official who is a close relative or cohabitant with a Contractor or its Representatives in the course of negotiating a contracting agreement or performing a Contractor's obligation*
 - (1) For the purposes of this policy, close relatives shall be defined as including spouse, sibling, parent, grandparent, child, and grandchild. Cohabitants shall be defined as persons living together.
- O. *Engaging in prohibited communication with LAUSD officials during the Cone of Silence time period(s) of the contracting process*
 - (1) In a competitive contracting process, the Cone of Silence begins from the time when an Invitation for Bid (IFB), Request for Proposal (RFP), Request for Interest and Bid (RFIB), Request for

Quote, Request for Qualification, or any other solicitation release is announced by LAUSD until the time a contract award recommendation is made public by the Board Secretariat's posting of the board report for the contract to be approved.

- (2) In a non-competitive contracting process, the Cone of Silence begins at the time when a proposal is submitted to LAUSD until the time the contract is fully executed.
- P. *Employing any current or former LAUSD employee to perform any work prohibited by the "Cooling Periods" defined in Section 4F of this Code*
- Q. *Making or participating in the making of governmental decisions on behalf of LAUSD when a Contractor or its Representatives has an existing financial interest that is prohibited under the law*
- R. *Making any substitution of goods, services, or talent that does not meet contract specifications without prior approval from LAUSD*
- S. *Making false charges on claims for payment submitted to LAUSD in violation of the California False Claims Act, Cal. Government Code §§ 12650-12655*
- T. *Requesting, attempting to request, or accepting—either directly or indirectly—any protected information regarding present or future contracts before the information is made publicly available at the same time and in the same form to all other potential bidders*
- U. *Submitting a bid as a proposer or sub-proposer on a particular procurement after participating in its development (e.g. identifying the scope of work, creating solicitation documents or technical specifications, developing evaluation criteria, and preparing contractual instruments)*

LOBBYING PROHIBITIONS

- V. *Engaging in any lobbying activities without the appropriate disclosure, if the registration trigger has been met*
- W. *Lobbying on behalf of LAUSD, if a Contractor or its Representatives is lobbying LAUSD officials.*
- (1) Any person or entity who receives compensation to lobby on behalf of or otherwise represent LAUSD, pursuant to a contract or sub-contract, shall be prohibited from also lobbying LAUSD on behalf of any other person or entity for compensation as this would be considered a conflict of interest.

7. Issues Resolution

Early identification and resolution of contracting or other ethical issues that may arise are critical to building public trust. Whenever possible, it is advisable to initiate the issue resolution process proactively, either with the designated contracting contact if the issue arises during the contracting process, or with the Contract Sponsor in the case of an active contract that is being carried out. It is always appropriate to seek out the Procurement Services Group or the Facilities Contracts Branch to resolve an issue, if another alternative is not possible. Formal disputes regarding bid solicitations or contract awards should be raised and addressed in accordance with LAUSD policy where such matters will be given full, impartial, and timely consideration.

8. Enforcement Provisions

While Contractors and their Representatives are expected to self-monitor their compliance with this Contractor Code of Conduct, the provisions of this Code are enforceable by LAUSD. Enforcement measures can be taken by LAUSD's Procurement Services Group or Facilities Contracts Branch in consultation with the Contract Sponsor, the Ethics Office, the Office of the General Counsel, and the Office of the Inspector General. The Office of the Inspector General may also refer matters to the appropriate authorities for further action.

- A. **Report Violations** – Good faith reporting of suspected violations of the Contractor Code of Conduct is encouraged. Reports of possible violations should be made to the Office of the Inspector General

where such reports will be investigated and handled with the level of confidentiality that is merited and permitted by law. No adverse consequences will result to anyone as a result of making a good faith report.

- B. Cooperate on Audits and Investigations – Contractors and their Representatives shall cooperate with any necessary audits or investigations by LAUSD relating to conduct identified in this Code. Such audits and investigations may be conducted when LAUSD has reason to believe that a violation of this Code has occurred. Once an audit or investigation is complete, LAUSD may contact a Contractor or their Representatives to establish remedies and/or sanctions.
- C. Comply with Sanctions – Contractors and their Representatives shall comply with the necessary sanctions for violations of this Code of Conduct. Remedies can include and/or combine one or more of the following actions:
 - (1) Removal of offending Contractor or subcontractor;
 - (2) Implementation of corrective action plan approved by LAUSD;
 - (3) Submission of training plan for preventing future violations of the Code;
 - (4) Probation for 1-3 years;
 - (5) Rescission, voidance or termination of a contract;
 - (6) Suspension from all LAUSD contracting for a period of time;
 - (7) Prohibition from all LAUSD lobbying activities;
 - (8) Compliance with deferred debarment agreement;
 - (9) Debarment from all LAUSD procurement or contracting; or
 - (10) Other sanctions available by law that are deemed reasonable and appropriate.

In the case of a procurement in which a contract has yet to be awarded, LAUSD reserves the right to reject any bid or proposal, to terminate the procurement process or to take other appropriate actions.

Failure to remedy the situation in the timely manner prescribed by LAUSD can result in additional sanctions. *Records of violations or any other non-compliance are a matter of public record.*

Any debarment proceeding will follow due process in accordance with the procedures described in LAUSD's Debarment Policy.

9. Future Code Updates

To ensure that LAUSD maintain our effectiveness in promoting integrity in our contracting processes and our use of public tax dollars, LAUSD reserves the right to amend and modify this Contractor Code of Conduct at its discretion. LAUSD's Ethics Office will post the latest version of the Code on its website. Interested parties with ideas on how LAUSD can strengthen our Code to improve public trust in the integrity of LAUSD's decision-making can contact LAUSD's Ethics Office in writing to share their comments. Such comments will be evaluated for future code updates.

LAUSD is not responsible for notifying a Contractor or their Representatives of any changes to this Code. It is the responsibility of a Contractor to keep itself and its Representatives apprised of any changes made to this Code. LAUSD is not responsible for any damages that may occur as a result of a Contractor's failure to fulfill its responsibilities of staying current on this Code.

10. Severability

If one part or provision of this Contractor Code of Conduct, or its application to any person or organization, is found to be invalid by any court, the remainder of this Code and its application to other persons or organizations, which has not been found invalid, shall not be affected by such invalidity, and to that extent the provisions of this Code are declared to be severable.

EXHIBIT E

SMALL BUSINESS ENTERPRISE PLAN



LOS ANGELES UNIFIED SCHOOL DISTRICT
FACILITIES SERVICES DIVISION



Small Business Enterprise Certification Application

CONTRACTOR/VENDOR INFORMATION

Business Contact Information

You MUST complete ALL applicable fields. Incomplete applications may cause a delay in processing.

New Contractor/Vendor ☐ Contractor/Vendor update: ☐ Existing Contractor/Vendor: ☐

LAUSD Prequalified Contractor: Category A ☐ Category B ☐ Category C ☐ Safety Prequalified ☐

Business Name _____

Address _____ City _____ State _____ Zip _____

Phone: _____ Fax: _____ E-mail _____

Year Est. _____ Federal Tax Identification Number _____

The business is owned by: *(attach separate sheet if there are more than two (owners))*

a. _____ b. _____

(If applicable) This firm is also Doing Business As *(attach separate sheet if there is more than one DBA)*

_____ at _____
Name of firm City State

1. Provide this firm's Primary North American Industrial Classification System Code (NAICS).

You can determine your NAICS code on the SBA Website at: <http://www.sba.gov/size/indehtableofsize.html>

2. Provide any other applicable NAICS codes: _____

3. (Optional) Are you also a ☐ minority-owned or ☐ women-owned enterprise?

If yes, please select one of the following:

☐ Native American ☐ Asian/Pacific Islander ☐ Afro-American/Black ☐ Hispanic ☐ Other

4. Are you applying for Small Business Enterprise (SBE) status? Yes ☐ No ☐ (If yes, please continue on with this application)

Declaration for Self-Certification for Small Business Enterprise

Please complete the following information to receive Small Business Enterprise recognition with the LAUSD Facilities Services Division and the Metropolitan Water District of Southern California:

1. The firm's average Annual Receipts for the last three Fiscal Year periods based upon (select one):

☐ IRS Tax Form 1120 (Corporation) ☐ IRS Tax Form 1065 (Partnership) ☐ IRS 1040 Schedule C (Sole Proprietor) is:

\$_____.00 This average covers fiscal years _____ to _____.

The firm's fiscal year runs from _____ to _____.

2. The average number of employees of this firm for the last twelve calendar months is _____.

NOTARIZATION IS REQUIRED FOR DECLARATION OF SELF CERTIFICATION

I hereby declare the following

This firm is best described by NAICS Codes and descriptions identified in Items 1 and 2 of this Declaration, and falls within the SBA Size Standard threshold for each such NAICS Code.

I understand that this certification is subject to audit by the LAUSD Facilities Services Division, and that all statements made herein are true and correct. I further understand that if I falsify or misrepresent information on this form LAUSD Facilities Services Division may, in its sole discretion, disqualify this firm from participation in any LAUSD Facilities contracts for a period of up to 5 years.

I am duly authorized to enter into contracts on behalf of this firm.

The foregoing is true and correct under penalty of perjury of the laws of the State of California.

Print Name _____

Title _____ Date _____

Signature _____

Executed at: _____

ACKNOWLEDGEMENT

STATE OF CALIFORNIA, COUNTY OF _____

On _____ 20__ before me _____, personally known to me or proved to me or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument on the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

Notary Signature _____ SEAL

Internal Use Only:

Approved/Rejected: _____ Effective Date: _____ Exp. Date: _____

Small Business Outreach Program Manager

Comments:

Definitions and Instructions

The following are definitions and instructions will assist you in properly completing this SBE application.

Annual Receipts - "total income" (or in the case of a sole proprietorship, "gross income") plus the "cost of goods sold" as these terms are defined or reported on Internal Revenue Service (IRS) Federal tax return forms (Form 1120 for corporations; Form 1120S for Subchapter S corporations; Form 1065 for partnerships; and Form 1040, Schedule F for farm or Schedule C for other sole proprietorships). However, the term receipts excludes net capital gains or losses, taxes collected for and remitted to a taxing authority if included in gross or total income, proceeds from the transactions between a concern and its domestic or foreign affiliates (if also excluded from gross or total income on a consolidated return filed with the IRS), and amounts collected for another by a travel agent, real estate agent, advertising agent, or conference management service provider.

- Annual receipts of a concern which has been in business for 3 or more completed fiscal years means the receipts of the concern over its last 3 completed fiscal years divided by three.
- Annual receipts of a concern which has been in business for less than 3 complete fiscal years means the receipts for the period the concern has been in business divided by the number of weeks in business, multiplied by 52.
- Annual receipts of a concern which has been in business 3 or more complete fiscal years but has a short year as one of those years means the receipts for the short year and the two full fiscal years divided by the number of weeks in the short year and the two full fiscal years, multiplied by 52.

13 CFR Part 121- Code of Federal Regulations Title 13 Part 121-PART 121--SMALL BUSINESS SIZE REGULATIONS- defines whether a business entity is small and, thus, eligible for programs reserved for "small business" concerns. Size standards have been established for types of economic activity, or industry, generally under the North American Industrial Classification System (NAICS). The LAUSD Facilities Services Division Small Business Outreach Program applies 13 CFR Part 121 in determining a firm's eligibility for Small Business Enterprise status.

Doing Business As (DBA) - Typically a sole proprietorship is set up as the owner's name (e.g. John Smith). If an owner chooses to operate his or her business under a different name or DBA (e.g. Smith's Lawn Care) it must file a "doing business as" or DBA form with the appropriate government body.

Fiscal year - a taxable year including any short period. Taxable year and short period have the meaning attributed to them by the IRS.

Minority-Owned Business Enterprise (MBE) – A business enterprise that is at least 51 percent owned by a minority individual or group; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more minority groups and whose management and daily operations are controlled and operated by one or more of these individuals. Minority includes Black Americans, Hispanic Americans, Asian-Pacific Americans (including persons whose origins are from Japan, China, the Philippines, Vietnam, Korea, Samoa, Guam, the United States Trust Territories of the Pacific, Northern Marianas, Laos, Cambodia, and Taiwan) or Native Americans (including American Indians, Eskimos, Aleuts and Native Hawaiians). (Certification is not required.)

Woman-Owned Business Enterprise (WBE) – A business enterprise that is at least 51 percent owned by a woman or women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women and whose management and daily business operations are controlled and operated by one or more women. (Certification is not required.)

North American Industrial Classification System Code (NAICS) – NAICS codes are used by the SBA to identify and classify specific categories of business activity that represent the lines of business a firm conducts. SBA provides a full table of small business size standards. The size standards themselves are expressed either in number of employees or annual receipts in millions of dollars, unless otherwise specified. The number of employees or annual receipts indicates the maximum allowed for a firm and its affiliates to be considered small. The NAICS manual is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA 22161; by calling 1(800) 553-6847 or 1(703) 605-6000. The size standards for various NAICS code are available at: <http://www.sba.gov/size/Table-of-Small-Business-Size-Standards-from-final-rule.html>

DEFINITIONS AND INSTRUCTIONS (Continued)

Number of Employees- For purposes of determining Small Business status, employees counted in determining size include all individuals employed on a full-time, part-time, temporary, or other basis. Based on 13 CFR Part 121.106 the method for determining a concern's size includes the following principles:

- The average number of employees of the concern is used (including the employees of its domestic and foreign affiliates) based upon numbers of employees for each of the pay periods for the preceding completed 12 calendar months.
- Part-time and temporary employees are counted the same as full-time employees.
- If a concern has not been in business for 12 months, the average number of employees is used for each of the pay periods during which it has been in business.

Primary NAICS - In determining the primary industry or NAICS in which a firm or a firm combined with its affiliates is engaged, 13 CFR Part 121.107 considers the distribution of receipts, employees and costs of doing business among the different industries in which business operations occurred for the most recently completed fiscal year. Other factors, such as the distribution of patents, contract awards, and assets may also be considered.

Small Business Administration (SBA) – The United States Small Business Administration.

Small Business Enterprise- A small business enterprise is one that, at the time of contract award meets the following requirements:

- Is independently owned and operated, is not dominant in the field of operation in which it is proposing, has its principal place of business located in the United States and is organized for profit;
- Is at least 51 percent owned, or in the case of a publicly owned business, at least 51 percent of its voting stock is owned by United States citizens or lawfully fully admitted permanent resident aliens;
- Has, including its affiliates, a number of employees or annual receipts not exceeding the regulatory requirements found in 13 CFR Part 121.

Please return completed SBE certification application to:

Veronica Soto	Address:
Manager, Small Business Program	333 South Beaudry Avenue, Floor 23,
Los Angeles Unified School District	Los Angeles, CA 90017

For further information and assistance and completing this application, please contact:

Michael Bejarano, Small Business Program Coordinator 213-241-4973

Quick Online References

1. To ascertain your small business size standard or applicable NAICS code, visit the Small Business Administration web site.

<http://www.sba.gov>

2. To view specific LAUSD information, visit:

Contracting Opportunities

Facilities Construction Contracts

<http://laschools.org/contractor/cc/>

Contractor Prequalification

Facilities Construction Contracts

<http://laschools.org/contractor/cc/pq/>

Professional Services Contracts

<http://laschools.org/contractor/psc/>

Architecture & Engineering Contracts

<http://laschools.org/contractor/a&e/>

FSD Vendor Invoice Service Desk

1-866-604-7521 or invoice@lausd.org

Small Business Events & Workshops

<http://laschools.org/contractor/sbop/>

ATTACHMENT 1

FIRM INFORMATION FORM

ATTACHMENT 1

FIRM INFORMATION FORM

Firm Name		
Firm Address		
Firm Phone		Firm Fax
Federal Tax ID #		
Business Type	(sole ownership, Partnership, Corporation, Joint Venture, other), (date business started or incorporated and state incorporated in)	
Duns No.		
SBE (if any) Expiration date		
Parent Company (if any)		
Parent Company Address		
Parent Company Phone		Parent Company Fax
Principals/Officers (Names of not more than 2 including Title)		
Years with Company	Phone #	
Principals/Officers (Names of not more than 2 including Title)		
Years with Company	Phone #	
Name, Title, Phone No. and Email of Person Responsible for Contract		
Name, Title, Phone No. and Email of Contact Person for the Proposal		
Total # of Employees with the Firm		

ATTACHMENT 2

Proposal Certifications

CERTIFICATION A

CERTIFICATION OF COMPLIANCE TO DISTRICT ETHICS POLICY

The Proposer certifies that it is familiar with and in compliance with all provisions of the Los Angeles Unified School District's (DISTRICT) Ethics Policy including: 1) no officer, principal, partner or major shareholder of the Proposer has been a Member of the Board of Education or been employed by the DISTRICT in the last 12 months; 2) no employee of the Proposer has been a Board Member or been employed by the DISTRICT within the last 12 months and a) participated in developing the contract specifications, or b) had substantial responsibility in the area to be performed by the contract; 3) the Proposer has not employed as a lobbyist any former DISTRICT Board Member/Alternate or employee who left the DISTRICT within the last 12 months; and 4) the Proposer did not receive any confidential information in connection with the procurement. The Proposer also certifies that no employee or member of its proposed team, including subcontractors, participated in developing the contract specifications, or had substantial responsibility in the area to be performed by the contract. The Proposer further certifies that it has set forth below the names of all former Board of Education Members and employees it intends to employ in connection with the services to be performed by the contract.

Former Board of Education Member, Employees:

_____	_____
_____	_____
_____	_____
_____	_____

I declare under penalty of perjury, under the laws of the State of California, that the foregoing is true and correct.

Executed on _____, at _____.

Signature

Title

Proposer: _____
Subcontractor/Supplier: _____

CERTIFICATION B

CONFLICT OF INTEREST

I hereby certify that no Conflict of Interest exists between my organization, my Contractor(s) and Sub-Contractor(s), or my Consultant(s) and Sub-consultant(s) and the DISTRICT.

PRINT NAME

SIGNATURE OF OFFICER

TITLE OF OFFICER

NAME OF COMPANY

As part of your Certification, please respond to the following questions listed below:

1. Have you or any of your team member(s) or consultant(s) ever been employed by the DISTRICT? [Yes] [No]. If your answer is "Yes", please provide the following information:

- | | | | |
|----|--------------------------------|-------|------|
| a. | Were you a full-time employee? | [Yes] | [No] |
| | Part-Time employee? | [Yes] | [No] |
| | As-Needed employee? | [Yes] | [No] |
| | Consultant? | [Yes] | [No] |
| | Or other, please | | |

explain:

- b. What were the date(s) of your employment/employment contract/consulting contract?

- c. In which department(s) of DISTRICT did you work?

- d. Who was/were your Supervisor(s)?

e. Please describe your job duties and responsibilities for each DISTRICT position held?

f. What was your last date of employment?

2. Are any Board of Education Member(s) or employee(s) presently serving as Officer(s), Partner(s) or Shareholder(s) in your company? [Yes] [No]. If the answer is "Yes", please provide the following information:

a. What is the name of the Board Member(s) or employee(s)?

b. What is his/her position with your company?

c. If a Board of Education Member(s) or employee(s)/Shareholder(s) - what percentage of your company's shares does he/she own?

3. Are any of your former employee(s), (Consultants) presently employed by the DISTRICT? [Yes]____ [No]____. If the answer is "Yes", please provide the following information for each such employee(s).

a. What is the name of the former employee(s)?

b. What was his/her title at your company?

If he/she held more than one position(s) with your company, please provide the title of each positions) held.

c. Please describe his/her duties and responsibilities for each position(s) held at your company?

d. What were the date(s) of his/her employment?

e. What the final date(s) of his/her employment with your company?

I declare under the Penalty of Perjury under the laws of the State of California that the abovementioned statements are true and correct to the best of my knowledge, and this

declaration was executed on this _____ day of _____, 20__;

_____,
(City)

_____.
(State)

(Signature)

(Printed Name)

(Title)

CERTIFICATION C

CERTIFICATION OF PROPOSAL

- A. The undersigned hereby submits its proposal and, unless otherwise stated, agrees to furnish services to the Los Angeles Unified School District in accordance with this RFP and the exhibits and attachments thereto.
- B. The Proposer has carefully reviewed its proposal and understands that the District will not be responsible for any errors or omissions on the part of the Proposer.
- C. It is understood that the District reserves the right to accept or reject any or all proposals and to waive any informality in any proposal received.
- D. Enclosed as a part of this proposal are the figures and data required by the specifications.
- E. This proposal shall be considered an irrevocable offer and shall be valid for 120 days from the date proposals are required to be submitted.

Date: _____

Name of Firm _____

By _____
Authorized Signature

Title _____

Address _____

Telephone () _____ FAX () _____

Federal Tax I.D. No. _____

Social Security No. _____

ATTACHMENT 3

Billing Rate Form

Firm Name

	Hourly Direct Labor Rate (\$)	Total Overhead Rate		Fee Profit Margin (percentage)	Total Burdened Billing rate (\$)	1/2 Hourly Direct Labor Rate	Additional Payroll Taxes for OT	Overtime Rates	
		Fringe Benefit Cost (percentage)	Overhead & G/A Cost (percentage)					Overtime Rate	Double Time Rate
Inspectors - Concrete						0.5	17%		
Inspector – Concrete Batch Plant	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Concrete Sampling	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Concrete Placement	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Welding of Reinforcing Steel	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Concrete Post Tension Strand Stress Inspection	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Reinforcing Steel or Strand Sampling/Tagging	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Concrete Pre-stressed at Fabrication Shop	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Shotcrete Placement	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspectors - Masonry									
Inspector – Masonry Sampling/Tagging	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Masonry Placing	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Post Installed Anchors in Masonry & Concrete	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspectors - Steel									
Inspector – Structural Steel in field	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Structural Steel at Fabricating Shop	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Structural Steel Welding, material, equipment, and welder quality.	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – High Strength Bolting	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspector – Fireproofing Placing	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00
Inspectors - Wood									
Inspector – Glu-lam Beams/Trusses at Fabrication Shop	0.00	0.00	0.00	0.00	\$ -	0.00	0.00	0.00	0.00

Signature

Effective Date

PLEASE COMPLETE CELLS HIGHLIGHTED IN YELLOW.

Firm Name

	Total Burdened Billing rate (\$)
Tests	
Survey – Ground Penetration Radar (GPR)	\$ -
Survey – Pachometer	\$ -
Welding – Ultrasonic, Dye Penetrant, or Magnetic Particle Inspection	\$ -
Anchor – Post Installed Anchors in Masonry & Concrete – Proof Load/Torque Testing	\$ -
Shotcrete – Core Sample Compression Test	\$ -
Concrete – Concrete Cylinders Compression Test	\$ -
Concrete – Core Sample Compression Test	\$ -
Masonry – Mortar Cylinders	\$ -
Masonry – Grout Cubes	\$ -
Masonry – Compressive Strength	\$ -
Masonry – Unit Strength Method	\$ -
Masonry – ASTM C140	\$ -
Masonry – Compressive Strength - Prism Test Method ASTM C1314	\$ -
Masonry – Masonry Core Shear Test	\$ -
Structural Steel – Tensile & Bend	\$ -
Reinforcing Steel – Tensile	\$ -
Prestress – Prestress Strand	\$ -
Bolts – Test of High Strength Bolts, Nuts & Washes	\$ -
Fireproofing – Density/Thickening Testing	\$ -

	Total Burdened Billing rate (\$)
Review	
Review Welding Procedure	\$ -
Review & Evaluate Welder Qualification	\$ -
Pick-Up	
Concrete, Grout, Mortar Cylinder	\$ -
Masonry, Shotcrete Cores	\$ -
Prisms Masonry Samples	\$ -
Concrete Masonry Unit Samples	\$ -

Signature

Effective Date

PLEASE COMPLETE CELLS HIGHLIGHTED IN YELLOW.