



REQUEST FOR PROPOSALS (RFP) NO. RFP 2223-0185

BOND PERFORMANCE AUDIT SERVICES

Request for Information (RFI)	May 30, 2023 by 10:00 AM
District Responds to RFI's Comments/Questions	June 5, 2023 by End of Day
Due Date	June 15, 2023 by 10:00AM (Received via Electronic Submittal)
Anticipated Governing Board Approval	July 10, 2023

All dates are subject to change at the sole discretion of the Southwestern Community College District.

Notice to Bond Performance Auditing Firms
Request for Proposal of Qualification (RFP) No. 2223-0185

Notice is hereby given by the Southwestern Community College District of San Diego County, California, hereinafter referred to as the District, acting by and through its Governing Board, will receive up to, but not later than **10:00 AM on June 15, 2023**, responses to this Request for Proposal (RFP) for Bond Performance Audit Services for the Southwestern Community College District Bond Program.

Responses shall be received in the Office of Procurement, Central Services & Risk Management, via email to: swcbidsandproposals@swccd.edu, on the date and at the time stated above.

All responses to this RFP shall conform and be responsive to the RFP, including its attachments/addenda.

All interested Firms may request a copy of this RFP by e-mailing swcbidsandproposals@swccd.edu or visiting the District's web-site at www.swccd.edu/procurement - Any requests for information may be directed to Linda Hernandez, Director of Procurement, Central Services & Risk Management by e-mailing [Company E-mail]no later than **10:00AM on June 6, 2023**.

Mark Sanchez, Ed.D.
Secretary of the Governing Board
Southwestern Community College District
of San Diego, California

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I. INTRODUCTION

A. PURPOSE

The Southwestern Community College District (SCCD) is seeking to retain a qualified independent audit firm (“Performance Auditor”) to perform a comprehensive Performance Audit of the Proposition R and Proposition Z Bond Programs (“Program” (“Programs”).

SCCD is requesting proposal of qualifications from professional audit firms with experience in providing, but not limited to, bond performance audits and compliance audits. The entirety of this Request for Proposal (RFP) document sets forth the District’s requirements in detail. All responses should be submitted in accordance with the terms and conditions contained in the foregoing document.

B. DISTRICT BACKGROUND HISTORY AND OVERVIEW

The Southwestern Community College District (SCCD), located South of San Diego and extending to the U.S. – Mexico border, is one of seventy-two community college districts in the California Community College system. It serves as the primary source of higher education for approximately 400,000 residents of the South San Diego County area including the communities of Bonita, Chula Vista, Imperial Beach, National City, Nestor, Otay Mesa, Palm City, San Ysidro, Sunnyside, and Coronado. The college began offering classes to 1,675 students in 1961, with temporary quarters at Chula Vista High School. Groundbreaking for the present 156-acre campus was in 1963. By September of 1964, initial construction was complete and classes were held for the first time on the present Otay Lakes Road site in Chula Vista. In addition to its main campus in Chula Vista, Southwestern College has established four (4) center sites, the Southwestern College Education Center at San Ysidro (1988), the Higher Education Center in National City (1998), the Higher Education Center in Otay Mesa (2007), and Crown Cove Aquatic Center. The college also provides off-campus classes at several extension centers throughout the district. Current enrollment is nearly 26,000 students and more than 600,000 students have attended Southwestern College since it opened its doors. The District employs approximately 1,400 employees (full and part time).

The District successfully passed Proposition AA in 2000 for \$89 million of which all funds have been utilized, followed by successfully passing its \$389 million Proposition R in November 2008, of which \$290 million of Build America Bonds (BAB) and General Obligation Bonds (GOB) have been received to date. Additionally, the District successfully passed its \$400 million Proposition Z in November, 2016, ensuring continuity in the execution of the District’s 2012 Facilities Master Plan.

In keeping with its mission, SCCD provides comprehensive lower-division general education, occupational education, transfer education, credit and non-credit

instructional programs geared to meet the needs of the communities serviced by SCCD and meet the changing needs of students for academic and occupational preparation, and lifelong learning. Southwestern Community College District is accredited by The Western Association of Schools and Colleges (WASC).

II. GENERAL INFORMATION AND CONDITIONS

A. DEFINITION OF TERMS

The designation or term “**District**” and/or “**SCCD**” refers to the Southwestern Community College District, a political subdivision of the State of California.

The term “**Proposers**” refers to Firms that choose to submit proposals for Bond Performance Audit Services.

The terms “**Contract**” and “**Agreement**” shall be used interchangeably within this document.

Throughout this document, the term “**District**” and/or “**SCCD**” shall be used to designate the rights and responsibilities of the Southwestern Community College District and will be used interchangeably within this document.

The term “**Proposer**” shall be used to designate the rights and responsibilities of the successful firm responding to this RFP.

B. RFP SCHEDULE

The following dates are subject to change at the discretion of SCCD.

Date of Issue	May 26, 2023
Advertisement Dates	May 30, 2023 June 5, 2023
Publication	Union Tribune District Web-Site PTAC Web-Site
Request for Information (RFI)	June 6, 2023 by 10:00 AM
District Responds to RFI's/Comments/Questions	June 7, 2023 By End of Day
Due Date	June 15, by 11:00AM (Received via Electronic Submittal)
Anticipated Governing Board Approval	July 10, 2023

C. QUESTIONS FROM PROPOSERS

All RFP questions are to be submitted in writing via email to Linda Hernandez at swcbidsandproposals@swccd.edu on or before 10:00AM (PST) on June 5, 2023 (the "Questions Submission Deadline"), with the subject, "Questions for RFP 2223-0185: BOND PERFORMANCE AUDIT SERVICES".

Proposers are asked to submit all questions in writing by the above deadline. SCCD shall not be obligated to answer any questions received after the above- specified deadline or submitted in a manner other than as instructed above.

Proposers are instructed not to contact District personnel or its agents in any other manner concerning this RFP. Unauthorized contact, at SCCD's sole discretion, will be grounds for disqualification of a proposer. Written responses from the District will be posted on the District website: www.swccd.edu/procurement

D. PROPOSAL SUBMITTAL

The proposer shall submit to the District a PDF submission via email to: swcbidsandproposals@swccd.edu, **no later than 10:00 AM on June 15, 2023**. The electronic submission shall have the following subject line: "Submittal: RFP 2223-0185: Bond Performance Audit Services".

Proposals must be received by the date and time noted above. Any proposal received after the submittal deadline, may, at the sole discretion of the District, be set aside without consideration.

Electronic delivery of a proposal by the specified deadline is the sole responsibility of the Proposer. SCCD shall not be responsible for, nor accept as a valid excuse for late proposal receipt, any delay in email/Internet provider service except where it can be established that the District was the sole cause of the late receipt.

Proposals submitted via fax, telephone or hard copy will not be accepted.

The District intends that all proposals remain unopened until after the deadline for the receipt of the proposals has passed. However, the District shall not be liable for damages alleged to arise from, nor accept as the basis for protest of a contract award, the circumstance where the District inadvertently opens a proposal prior to the deadline.

Proposals submitted in response to this RFP shall be in the following order and shall include:

- A. **General Information** - Provide a cover letter per the requirements of this RFP. (See Proposal Form A)
- B. **Mandatory Responses** - Provide answers to ALL questions in this RFP. Limit responses to no more than one page per question when possible. (See Proposal Form B).

- C. **Personnel Experience** – For each individual being proposed, provide the name(s), title(s), qualification(s), license information, availability and location of key staff members and supervisory personnel expected to work on this project, using the format outlined in this RFP. Please include an organizational chart for the proposed staff and indicate who will be the District’s contact person for this Project. (See Proposal Form C)
- D. **Fee and Rate Proposal** – (See Proposal Form D)
- E. **General Terms and Conditions** (See Proposal Form E)
- F. **References** – Provide (3) current and three (3) previous references using the format outlined in this RFP. (See Proposal Form F)
- G. **Addenda Acknowledgement** – Using the form provided in this RFP (See Proposal Form G)
- H. **Appendices**
- Non-collusion Declaration – Must be notarized
 - Equal Opportunity Affirmative Action Statement (requires Corporate Seal)
 - Contractor’s Certificate Regarding Worker’s Compensation (requires Corporate Seal)
 - Sample Agreement/Contract (For reference; especially if Proposer is recommending changes to the District Agreement and or is proposing different contract language).
 - Check List

Please note that oral, telephone, facsimile (fax machine) proposals **will not** be accepted. Each proposal shall be prepared simply, providing the straightforward, concise description of the proposer's ability to meet the requirements of the RFP.

All proposals must be received on or before 10:00AM on June 15, 2023 . Any proposal received after the scheduled closing time for receipt of proposal may be deemed as non-responsive and considered rejected. All proposals must be delivered electronically to: swcbidsandproposals@swccd.edu

RIGHT TO REJECT

This Request for Proposal does not constitute a commitment by the District to award a contract. The District reserves the right to waive any informality and to reject any or all proposals and/or to cancel the Request for Proposal. The District expressly reserves the right to postpone the proposal opening date for its own convenience. The award shall be made on the proposal(s) that serve(s) the best interest of the District and will not be evaluated solely on a monetary basis; however, proposers are encouraged to submit their best prices in their proposals. Award will be based on proposer’s qualification and best fit as deemed by the District. No contract award shall exist until executed and approved by the

District's Governing Board.

MODIFICATIONS TO PROPOSALS

The proposal may be modified after its submission by written notice to the District of withdrawal and resubmission, only, before the date and time specified for receipt of proposals (prior to the Due Date of June 15, 2023). Modification will not be considered if offered in any other manner. No modifications will be allowed after the RFP due date and time has passed.

PROPRIETARY INFORMATION

In the event any Proposer shall include in the Proposal any information deemed "proprietary" or "protected", such information shall be separately packaged from the balance of the proposal and clearly marked as to any proprietary claim. The District discourages the submission of such information and undertakes to provide no more than reasonable efforts to protect the proprietary nature of such information. The District, as a public entity, cannot and does not warrant that proprietary information will not be disclosed due the Provisions of the California Public Records Act. The District shall have the right to use any or all information included in the proposals.

ORDINANCES, LAWS AND REGULATIONS

The Proposer shall comply with all ordinances, laws, and regulations pertaining to the operation contemplated hereby, including, but not limited to, the California Workers' Compensation Act, the Federal Equal Employment Opportunities Act, and the Americans with Disabilities Act. The Proposer shall apply for, obtain, and maintain in force all permits and licenses required by the various agencies of Federal, State, and local government having jurisdiction over the Proposer operations. All operations and materials shall be in accordance with all applicable Federal, State, County and City laws, statutes and requirements.

WITHDRAWAL OF PROPOSALS

Any Proposer may withdraw their proposal by written request via e-mail to Linda Hernandez at swcbidsandproposals@swccd.edu at any time **prior** to the deadline set for receipt of proposals. The subject line of the e-mail should include and read: "your company name/withdrawal of RFP No.2223-0185 BOND PERFORMANCE AUDIT SERVICES. No proposal may be withdrawn or modified after the deadline. Withdrawn proposals may be resubmitted up to the date and time designated for the receipt of proposals, provided that, they are then in full conformance with the general terms and conditions of the RFP.

IRREVOCABLE OFFER

Proposals shall be considered irrevocable offers for a period of ninety (90) days from the date of receipt and may not be withdrawn during this period without consent of the District.

COST OF PREPARING PROPOSALS

Any and all costs associated with the preparation of responses to this Request for Proposal, including site visits, oral presentations and any other costs shall be entirely the responsibility of the Proposer and shall not be reimbursable in any manner by the District.

COMPLETION OF PROPOSALS

Proposals shall be completed in all respects as required by the instructions herein. A proposal may be rejected if it is conditional or incomplete, or if it contains alterations of forms or other irregularities of any kind. A proposal will be rejected if, in the opinion of the District, the information contained therein was intended to erroneously and fallaciously mislead the District in the evaluation of the proposal.

EXAMINATION OF CONTRACT DOCUMENTS

Proposers shall thoroughly examine the contents of this RFP. The failure or omission of any Proposer to receive or examine any contract document, form, instrument, addendum, or other document shall in no way relieve the firm from obligations with respect to this RFP or to the contract to be awarded. The submission of a proposal shall be taken as prima facie evidence of compliance with this section.

If any ambiguity, conflict, discrepancy, omission or other errors in the RFP is discovered, then the Proposer shall immediately notify the District of the error in writing and request modification or clarification of the document. All requests for clarifications shall be sent to the Director of Procurement, Central Services and Risk Management via email.

ERROR IN PROPOSAL

Proposer shall be bound by the terms and conditions of the proposal. However, if material errors are found in a proposal, the District may notify the Proposer that the submitted proposal requires correction of the errors. The District reserves the right to request additional information or clarification to allow corrections of errors or omissions.

INTERVIEWS

Proposer may, after opening and prior to award, be required to make oral and visual presentations at the request of the District and based on the availability of the review committee. The District MAY schedule the date, time and location for any presentations as requested, any oral presentations will be evaluated and may be subjected to the selection criteria. The District may award without requesting an in person interview or presentation from any potential proposers, this will be determined by the review committee, after the initial review and discussion of received proposals.

AWARD WITHOUT DISCUSSION

The District reserves the right to make an award without further discussion, request for information or presentation related to the proposals received. Therefore, it is critical that, all

proposals be submitted initially in the most favorable terms possible, both economically and technically.

CONTRACT COMMENCEMENT/TERM

It is the intent of the District to commence the resulting contract as soon as possible after evaluation of the proposals. Performance period for this contract is anticipated to be from July 11, 2023 to July 10, 2028. Term shall not exceed five (5) years total. After award, contract is subject to cancelation with 30-days written notice by either party.

INDEPENDENT CONTRACTOR STATUS

It is expressly understood that the firm named in any contract entered into by the District is acting as an “independent contractor” and not as an agent or employee of the District.

SCCD MODIFICATIONS TO PROPOSALS

Any interpretation, correction, or change of this RFP will be made by written Addendum. Interpretations, corrections, or changes of this RFP made in any other manner will not be binding, and Proposers shall not rely upon such interpretations, corrections, and changes. Any changes or corrections will be issued by SCCD. All Addenda issued to this RFP will be posted to the District web site at www.swccd.edu/procurement. Addenda will also be e-mailed to all that are known to have received a copy of the RFP. **Since failure to acknowledge any addendum(s) may be cause for rejection, Proposers must return the addendum-completed acknowledgment(s) with the proposal. (Proposal Form G)**

NEGOTIATION

District reserves the right to negotiate the final pricing and scope of services prior to the award of business.

AWARD OF CONTRACT

It is anticipated that a contract will be awarded by the Board of Trustees at a regularly scheduled meeting on **July 10, 2023**. The award will be made to the responsible firm judged to offer the most advantages for the District. At the time of the formal award, the apparent successful firm must have agreed to contract terms representing the understandings between the parties as to terms and conditions which will govern the relationship of District and Proposer and the obligation of each party for performance of the Agreement.

FINAL CONTRACT

The following documents are considered part of the final Agreement, in order of precedence:

- A. The final Agreement between SCCD and the Proposer.
- B. The Proposer’s proposal in total, including all addenda, attachments and requested updates;
- C. This RFP as originally released, with Appendices and any addenda released prior to proposal opening.

All of the above documents are intended to cooperate and be complementary so that any instructions or requirements called for in one and not mentioned in the other, or vice versa, are to be executed the same as if mentioned in all said documents. The intention of the documents is to include all labor, materials, equipment and transportation necessary for the proper delivery of all services called for in any contract which may arise as a result of this RFP.

NON-COLLUSION DECLARATION

Declarations are required to be completed by the Proposer declaring that the proposal is in all respects fair and without collusion or fraud. Please see Appendix A.

EQUAL OPPORTUNITY AFFIRMATIVE ACTION STATEMENT

Proposer must accept and sign the Equal Opportunity and Affirmative Action Statement set forth in Appendix B.

PROHIBITED INTEREST

No official of the District who is authorized in such capacity and on behalf of the District to take part in negotiations or to make, accept or approve this contract, shall have direct or indirect financial interest in the award or any part thereof. Proposer shall receive no compensation hereunder should bidder aid, abet or knowingly participate in violation of this article or breach or violation of this article, the District shall have the right to terminate the contract either in part or in whole and any loss or damage sustained by the District in procuring the services on the open market which the Proposer agreed to perform, shall be borne and paid for by the Proposer.

QUALITY OF WORK

The Proposer shall be responsible for the performance of all work as specified herein and shall guarantee that work will meet or exceed the specifications as set forth herein. If it is determined by the District that such services and/or materials do not meet requirements of the District, the Proposer shall be required to correct the same at their own expense.

QUALITY OF PERSONNEL ASSIGNED TO THE WORK

The Proposer shall not employ on this account any unfit person or anyone not skilled in the work assigned to him/her and shall devote only its best qualified personnel to work under this contract. Should the District deem anyone employed under any contract which may arise as a result of this RFP to be incompetent or unfit for its duties and so inform the Proposer, the Proposer shall immediately remove such person from this work and such person, shall not again, without prior written permission of the District, be assigned to work under this contract.

FEES

The District agrees to pay and the Proposer agrees to accept for performance of all services

rendered herein, exclusive of extra work and services, a fee as specified in the cost proposal included herein. The prices specified in the cost proposal shall be firm for the duration of the contract and shall include all of the Proposer's costs, taxes, duties, license fees, expenses, overhead, required bonds, and profit.

It is understood and agreed that said fee is a maximum fee and is subject to corresponding reduction in the event that the actual cost of performing the services proves to be less than is now estimated at the time of entering into the contract.

TERMINATION

The District hereby reserves the right to terminate this Agreement, with or without cause, at any time. In the event of such termination, the Proposer shall be paid the reasonable value of all services rendered up to the date of such termination as may be determined by the District, and the Proposer hereby expressly waives any and all claims for damages or compensation arising under this contract, except as set forth herein, in the event of such termination. Notwithstanding any of the foregoing provisions, if, for any reason, the Board of Trustees fails to appropriate or allocate funds for further payment under any contract derived as a result of this RFP, the District will not be obligated to pay remaining unpaid balances beyond those funds for services already received.

DEFAULT

The District shall hold the Proposer responsible for any damage which may be sustained because of the failure or neglect of the Proposer to comply with any term or condition listed herein, it being specifically provided and agreed that time shall be of the essence of the delivery requirement of any contract which may arise as a result of this RFP. If the Proposer fails or neglects to furnish or deliver any of the services, materials, or supplies listed herein at the prices named and at the time and place herein stated, or otherwise fails or neglects to comply with the terms of any contract which may arise as a result of this RFP, the District may, upon written notice to the Proposer, cancel the contract in its entirety or cancel or rescind any or all items affected by such default, and may, whether or not the contract is canceled in whole or in part, purchase the services, materials, or supplies elsewhere without notice to the Proposer. The prices paid by the District at the time such purchases are made shall be considered the prevailing market prices. Any extra cost incurred by the Proposer's default may be collected by the District from the Proposer and/or from the surety on the performance bond, if any.

FORCE MAJEURE

The parties to any contract which may arise as a result of this RFP shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering or performing by act of God, fire, strike, loss or shortage of

transportation facilities, lockout, or commandeering of materials, products, plant, or facilities by the government, when satisfactory evidence thereof is presented to the other party, provided that it is also established that the non-performance is not due in part to the fault or neglect of the party not performing.

INTERVIEWS

Responses to this RFP may be so similar in quality that oral interviews may need to be conducted to assist in making the final selection. The decision to hold interviews and the scope or any limitations thereof shall be at the sole discretion of the District. In the event that an interview is prescribed, the District requires that the designated representatives identified in the proposals as being the auditors who will be assigned to the District, be present and prepared to respond to District inquiries.

PROPOSER CONDUCT

During the RFP window (from release of this RFP to final award), proposer is not permitted to contact any SCCD employees or members of the Governing Board unless at the request of SCCD's designated contact person (Director of Procurement, Central Services & Risk Management) or to fulfill pre-existing contractual obligations. No gratuities of any kind will be accepted, including meals, gifts, or trips. Violation of these conditions may constitute immediate disqualification.

ASSIGNMENT OF CONTRACT

The contract entered into for the performance of these specifications may not be, in whole or any part, assigned or transferred, directly or indirectly, without the prior written consent of the District.

CHANGES TO CONTRACT TERMS

If experience or special circumstances dictate the need for modifications in the level or variety of services at any location, it shall be specifically understood and agreed that such modifications may be implemented by mutual agreement without voiding in any manner the contract executed by the parties at the beginning of the contract term.

Any changes, additions, deletions, or modifications, which materially change the terms of the contract, shall be made by written amendment and signed by the District and the Proposer's.

E. PROPOSAL EVALUATION AND CONTRACT AWARD

1. OVERVIEW

All proposals received in accordance with these RFP instructions will be evaluated to

determine if they are complete and meet the requirements specified in this RFP. An award will be made to the Proposer whose offer is judged to be the most advantageous to the District. The District expressly reserves the right to reject all proposals and make no award under this RFP.

2. EVALUATION PROCEDURES

Process

The process for evaluation, scoring, and selection on the Bond Performance Audit Services Provider shall proceed in three phases hereafter described.

First Phase

The first phase of the RFP process (“First Phase”) shall commence with issuance and advertisement by the District of the RFP inviting interested firms to submit Proposals to provide Bond Performance Audit Services to the District. Subject to the District’s discretionary right to disqualify any firm that is not responsive to the requirements of the RFP Documents, any and all interested firms are invited to respond to the RFP and to participate in the First Phase of the RFP process.

Upon receipt by the District, Proposals shall be delivered to a review panel of evaluators appointed by the District (“Proposal Evaluation Panel” or “Panel”) consisting of appropriate District staff and possibly outside consultants. The Proposal Evaluation Panel will evaluate and score the subjective scoring areas of the Proposals according to the criteria listed below. Objective areas, such as costs, shall be scored in accordance with the criteria established by the Panel in the RFP document. All scores will be tabulated for an average score.

Based on the total scores for the First Phase, a short list of two or more most-highly rated proposers will be established who would then be invited to participate in the Second Phase of the RFP process as described hereafter. If three or fewer firms have submitted Proposals as part of the First Phase, they will (subject to any determination of disqualification) all be invited to participate in the Second Phase.

Second Phase

In the second phase of the RFP process (“Second Phase”), should the Evaluation Panel identify the need for an interview/presentation by the Proposer, interviews will be scheduled with the Short-Listed Proposers and may or may not include, at the option of the District exercised in its sole and absolute discretion, interviews of References (“Reference Interviews”).

Interviews shall be conducted by a panel of evaluators appointed by the District (“Interview Evaluation Panel”), which may be comprised of those same persons who served as evaluators on the Proposal Evaluation Panel or may include or be wholly comprised of other persons appointed by the District. The Interview Evaluation Panel will conduct, evaluate, and score the Interviews. It is the preference that the individual identified as the Partner/Principle

in charge and/or the project manager of the engagement with SCCD to be the one(s) performing and/or leading the presentation/interview.

If Reference Interviews are conducted, the person(s) identified by the Proposer in its Proposal as the contact person for the Reference will be interviewed and asked to give ratings or scores in response to a pre-established list of questions.

3. EVALUATION CRITERIA

Based on the average total scores for the First and Second Phases, the Short-Listed Proposers will be ranked from highest to lowest (highest score being the first in rank) and the resulting ranking announced to all Proposers who submitted Proposals once the apparent highest scored proposer has accepted the award of contract.

Third Phase

Award or Negotiate. After evaluation and scoring of the First and Second Phases are complete the District will either (a) immediately accept the Proposal submitted by the highest-ranked Proposer or (b) conduct negotiations for the purpose of establishing agreed terms relative to pricing, staffing, and scope of services that are fair and reasonable to the District (“Negotiations”). The District may, at its sole discretion, substitute any pricing included in the Proposer’s response with pricing for equivalent equipment and/or services the Proposer has on any existing contract the District may use as a State agency in the County and City of San Diego.

As part of the Negotiations, the District may, but assumes no obligation to, engage in give and take in regard to the terms of a Proposer’s Proposals, including, without limitation, staffing, personnel, price, hourly rates, or scope of services. The District will first attempt to negotiate an agreement with the highest-ranked Proposer. If the District is unable to negotiate mutually acceptable pricing and terms with the highest-ranking proposer, the District will formally terminate Negotiations with that Proposer and may undertake Negotiations with the next highest-ranked Proposer, continuing that process until an agreement is reached. If the District is unable to reach an agreement with any of the Short-Listed Proposers, the District shall then have the option, in the exercise of its sole and absolute discretion, of repeating the Second Phase and Third Phase in the manner herein provided for all of those Proposers who were not short-listed.

Any selection and contract award is subject to review by the District’s President or designee and authorization by the District’s Board of Trustees.

Request for Additional Information

During the evaluation of Proposals, the District may require supplemental information in order to fairly evaluate a Proposer’s offer. For this purpose, the District may request such information, including a best and final offer, from the Proposer after the initial submittal. If

such information is required, the Proposer will be notified and be permitted a reasonable period of time to submit the information.

The proposal will be evaluated in accordance with response to the items described in Section IV: Proposal Format and Content and the following scoring criteria. Proposals will be evaluated for specificity, completeness, demonstrated experience to fulfill the requirements of this RFP.

By use of numerical and narrative scoring techniques, proposals will be evaluated by SCCD against the factors specified below.

Scoring Criteria for First and Second Phases

Criteria	Total Highest Possible Points
Work Plan Organization & Audit Plan Sample	20 points
Qualifications and Experience	20 points
Proposed Staffing and Project Organization	20 points
Quality and Responsiveness of Proposal	20 points
Costs and Fees	20 points
Total	100 Points

SCCD reserves the right to reject any or all proposals, to waive any irregularities or informalities in the offers received and to change the evaluation process described above if circumstances dictate this or it is otherwise in the best interests of SCCD to do such. In the event a proposal(s) is rejected, or in the event a proposer's offer is not rejected but does not result in a contract award, SCCD shall not be liable for any costs incurred by the proposer in connection with the preparation and submittal of the proposal.

4. CONTRACT AWARD

After evaluation and scoring is complete, the District will either (a) immediately accept the Proposal submitted by the highest-ranked Proposer or (b) conduct negotiations for the purpose of establishing agreed terms relative to pricing, staffing, and scope of services that are fair and reasonable to the District (“Negotiations”).

As part of the Negotiations, the District may, but assumes no obligation to, engage in give and take regarding the terms of a Proposer’s Proposals, including, without limitation, staffing, personnel, price, hourly rates, or scope of services. The District will first attempt to negotiate an agreement with the highest-ranked Proposer. If the District is unable to do so, the District

will formally terminate Negotiations with that Proposer and may undertake Negotiations with the next highest-ranked Proposer, continuing that process until an agreement is reached.

Any selection and contract award is subject to review by the District's Superintendent/President or designee and authorization by the District's Board of Trustees.

G. GENERAL CONDITIONS

1. ORAL COMMUNICATIONS. Any oral communications by the District's Contact Person(s) or designee concerning this RFP is not binding and shall in no way modify the RFP or the obligations of the District, the Proposer or Contractor. Any necessary modifications shall be made by written addenda issued by SCCD.

2. RESPONSIVENESS. A Proposer who submits a Proposal that does not conform to, or who does not conduct itself in accordance with, the requirements of the RFP Documents may be found to be non-responsive. The District shall have the right, but not the obligation, to take all or any combination of the following actions in response to a Proposer who is found to be non-responsive: (1) either before, during, or after scoring Proposals, disqualify such Proposer from further participation in the RFP process; (2) deny an Award to such Proposer; or (3) instruct the evaluators that they may or shall take into consideration such non-responsiveness in their scoring. The District's rights as described above are discretionary and as such may be exercised, not exercised, or exercised in any manner, as the District determines appropriate in its sole and absolute discretion. If identical violations of the RFP Documents occur by more than one Proposer then the District shall endeavor to enforce the requirements of the RFP Documents in a manner that affords, as much as possible, equal or comparable treatment to all such violating Proposers; provided, however, that where identical violations are scored by the evaluators it is recognized that there may be variations in scoring among different evaluators and such variations shall not be considered unequal treatment. Consistent with the discretionary nature of the District's rights relative to the question of the non-responsiveness of a Proposer, wherever in the RFP Documents a term or condition of the RFP Documents is described using words or phrases such as "required," "mandatory," "shall," "no less (or more) than," "at least," "at a minimum," or words or phrases having a similar meaning, such words or phrases shall be interpreted as being intended to draw the Proposers' attention to certain terms or conditions of the RFP Documents that if not met may result in disqualification or a negative scoring and shall not be interpreted as obligating the District to disqualify a Proposer or negatively score a Proposal that does not conform to the stated term or condition or as limiting the District's right to determine a Proposer non-responsive to a

finding of noncompliance with those terms and conditions or as precluding the District from finding a Proposer nonresponsive based on its noncompliance with another term or condition of the RFP Documents wherein such words or phrases are not used.

3. RFP ADDENDA/CLARIFICATIONS. If it becomes necessary for SCCD to revise any part of this RFP, or to provide clarification or additional information after the proposal documents are released, written addenda will be posted at the following website address: www.swccd.edu/procurement

It shall be the responsibility of the Proposer to check the above-noted website or to appropriately inquire with SCCD for any addenda issued. All addenda issued by SCCD shall become part of the RFP, and the Proposer shall acknowledge, in writing, receipt and incorporation of all addenda and clarifications in its response. Specifically, Proposer's acknowledgement of the addenda must be declared in the proposal in Exhibit D.

Failure of the Proposer to receive addenda shall not relieve the Proposer from any obligation under its proposal as submitted. The Proposer shall identify and list in its proposal all addenda received and included in its proposal. The Proposer's failure to identify and list in its proposal all addenda received and included in its proposal may be asserted by the SCCD as a basis for determining a proposal as non-responsive.

4. SUBCONTRACTORS. Use of subcontractors will not be permitted without prior written approval from the District.
5. JOINT OFFERS. SCCD intends to contract with a single firm and not with multiple firms doing business as a joint venture.
6. EXCEPTIONS / DEVIATIONS. Any exceptions to, deviations from, or inability to comply with the requirements set forth in this RFP, or the terms and conditions contained in the "Standard Agreement" provided as Exhibit G (Standard Agreement), must be declared in writing in Exhibit E (Exceptions and Deviations to the Standard Agreements) within the proposal; failure to do so will prevent proposer from asserting its inability to comply with the terms or conditions later on. Such exceptions or deviations must be segregated as a separate element of the proposal under Exhibit E - "Exceptions and Deviations to the Standard Agreements." The District will make a good faith effort to consider contractual issues identified by Proposers and SCCD requires all proposing Proposers to similarly make a good faith effort to comply with the District's sample agreement terms and conditions.

Proposals that mandate the use of Proposer standard services contract, rather than utilizing the District's standard contracts will result in that Proposer's proposal being judged non-responsive and these proposals will be rejected. Proposals that reject the following integral provisions of the District's contract terms and conditions will be treated as a rejection of the District's contract and these proposals will be rejected. (as well as other critical provisions identified as a later date prior to final award)

- Term of Agreement
- Indemnification
- Governing Law
- Non-Discrimination
- Accessibility
- Board Authorization

The proposer's attention is directed particularly to the section in the Standard Agreements, which specifies the minimum insurance requirements that must be met by the successful proposer(s). The proposer's inability or unwillingness to meet these requirements as a condition of award must be stated as an exception in the proposal.

7. **PRE-CONTRACTUAL EXPENSES.** The District shall not be liable for pre-contractual expenses incurred by the Proposer in the preparation of its proposal and Proposers shall not include any such expenses in their offers. Pre-contractual expenses are defined as expenses incurred by the Proposer to: (1) prepare and submit its offer to the District; (2) negotiate with the District on any matters related to this RFP; and (3) any other expenses incurred by the Proposer prior to the date of award, if any. Issuance of this RFP and receipt of proposals does not commit the District to award a contract. The District reserves the right to postpone the award for its own convenience, to accept or reject any or all proposals received in response to this RFP, to negotiate with more than one Proposer simultaneously, or to cancel all or part of this RFP.
8. **WITHDRAWAL; PROPOSAL IRREVOCABLE FOR 180 DAYS.** A Proposer may withdraw its proposal at any time prior to the submittal deadline by sending the District a request in writing from the same person who signed the submitted proposal. As of the deadline for submittal, any proposal received by the District

and not withdrawn becomes an irrevocable offer available for acceptance by the District immediately and for one-hundred eighty (180) days thereafter. The Proposer is responsible for the accuracy of the proposal submitted, and no allowance will be made for errors or price increases that the Proposer later alleges are retroactively applicable.

9. **EXEMPTION FROM DISCLOSURE.** Proposals will remain confidential in their entirety until the evaluation and analysis process is complete and a recommendation of an award has been submitted to the Southwestern Community College District, except for information declared at the proposal opening date. All proposals submitted will become the property of the Southwestern Community College District. The preparer must identify, in writing, all copyrighted material, trade secrets, or other proprietary information that the preparer claims are exempt from disclosure under the Public Records Act (California Government Code Section 6250 et seq.). Any firm claiming such an exemption must also state in the Proposal that "the Proposer agrees to indemnify and hold harmless the Southwestern Community College District, its Board of Trustees, and its officers, employees and agents, from any claims, liability, or damages against, and to defend any action brought against above said entities for their refusal to disclose such material, trade secrets, or other proprietary information by any party." Failure of a proposal to include such a statement will be deemed a waiver of any exemption from disclosure under the Public Records Act. A blanket statement that all contents of the proposal are confidential or proprietary will not be honored by the District.
10. **IMMATERIAL DEFECTS IN PROPOSAL.** The District may waive any immaterial deviation or defect in a proposal. The District's waiver shall in no way modify the RFP documents or excuse the Proposer from full compliance with the RFP if awarded the contract.
11. **PROPOSED CONTRACT.** The Proposer selected for contract award through this RFP shall be required to enter into a written agreement with SCCD. The Professional Services Agreement presented in Exhibit G of this RFP is the agreement proposed for execution with the successful proposer. It may be modified to incorporate other pertinent terms and conditions set forth in this RFP, including those added by addendum, and to reflect the proposer's offer or the outcome of contract negotiations, if any, conducted with the Proposer.

Exceptions to the terms and conditions of the Professional Services Agreement, or the Proposer's inability to comply with any of its provisions of the Professional Services, must be declared in the submitted proposal. It may be modified to

incorporate other pertinent terms and conditions set forth in this RFP, including those added by addendum, and to reflect the Proposer's offer or the outcome of contract negotiations, if any, conducted with the Proposer.

The Proposer's inability or unwillingness to meet these requirements as a condition of award must be stated as an exception in the proposal. A Proposer's unwillingness to meet the requirements of the Proposed Agreement will be grounds to reject the Proposer's proposal, in part or whole, and will result in the proposal being set aside from any further consideration for contract award.

12. **TERM OF CONTRACT.** If a contract is awarded through this RFP, it will be effective July 11, 2023 (or sooner if needed) and continue, for a period of five (5) years unless terminated earlier in accordance with the provisions specified in the District's Standard Agreements. Term of this Agreement will not exceed five (5) years total. No agreement with the District shall be in effect until a contract has been approved by the Board of Trustees of Southwestern Community College District and has been signed by both parties. Services under the contract are anticipated to begin thereafter or as indicated by the District's Risk Management officer.
13. **NEWS RELEASES.** News releases pertaining to any award resulting from this RFP may not be issued without the prior written approval of the District.
14. **USE OF DISTRICT EMPLOYEES' NAMES.** The successful Proposer must agree not to use the names or addresses of District employees for any purpose not directly related to this RFP.
15. **CONTRACTOR EVALUATION.** At the conclusion of the contract, the District may evaluate the contractor's performance. The results of this evaluation may be considered by the District in evaluating future proposals from the contractor and may be shared with other parties considering engaging the contractor if a request for reference is received by the District.

H. PROPOSER REPRESENTATIONS

Each Proposer submitting a Proposal in response to this RFP is deemed to have made the following representations:

- a. Proposer represents that its Proposals fully comply with the requirements of the

RFP Documents.

- b. Proposer represents that each person who signed a document that is included in the Proposer's Proposals was at the time of signing, and for the duration of Proposer's participation in the RFP process provided for in these Instructions shall remain, authorized to so sign on behalf of and to bind the Proposer.
- c. If the Proposer is a corporation, limited liability company, or limited partnership, Proposer represents that it is, and for the duration of Proposer's participation in the RFP process provided for by these Instructions shall remain, registered with the Office of the Secretary of State for the State of California and authorized under Applicable Laws to do business in the State of California with a legal status determined by said Office of the Secretary of State of "active and in good standing."
- d. Proposer represents that it has carefully reviewed the proposed Agreement and that the terms and conditions thereof are satisfactory to Proposer and represent in the opinion of the Proposer a fair and reasonable allocation and sharing of risks and responsibilities.
- e. Proposer represents that it has carefully reviewed all of the exhibits attached hereto and taken all matters disclosed thereby into consideration in preparing and submitting its Proposals.
- f. Proposer represents that it is, and at all times during the performance under the Agreement shall be, in full compliance with the provisions of the Immigration Reform and Control Act of 1986 ("IRCA"), as well any similar provisions of Applicable Laws setting forth proscriptions or penalties relating to the employment or hiring of undocumented aliens.
- g. Proposer represents that, at the time of submission of its Proposals, Proposer and each of its Sub-consultants and/or subcontractors possesses any licenses that may be required to hold under the terms of the RFP Documents, as well as any other licenses (if any) that it is required by Applicable Laws to hold in order to perform those services that it anticipates it will be required to perform under the terms of the Agreement.
- h. Proposer, being familiar with California Government Code §§1090 et. seq. and §§ 87100 et seq., represents that it does not know of any facts occurring in connection with the Proposer's preparation for, or participation in, the herein described RFP process that constitute a violation thereof and has disclosed in

a separate letter attached to their proposal of any possible interests, direct or indirect, which Proposer believes any official, officer, agent, or employee of the District or any of its Colleges, or any department thereof, has that might cause such official, officer, agent, or employee to be "financially interested" (as that term is defined the aforementioned statutes) in any decision made by District in connection with the procurement that is the subject of this Request for Proposal.

- i. In accordance with Public Contract Code section 2204 (a), the Proposer certifies and represents that at the time its Proposal(s) are submitted, the Proposer is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable. Proposers are cautioned that making a false certification and representation may subject the Proposer to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205. Proposer agrees that submission of its Proposal(s) shall constitute Proposer's certification and representation as aforesaid.

III. SCOPE OF WORK

Scope of the Proposal (These dates may be adjusted by the District)

Performance Audits for five (5) fiscal years July 1, 2018-June 30, 2019; July 1 2019-June 30, 2020; July 1, 2020-June 30, 2021; July 1 2021-June 30, 2022; and July 1, 2022 to June 30, 2023.

Present and complete the Performance Audit for each fiscal year with the understanding that the completion and presentation of Performance Audit reports will occur after the last date for each fiscal year audited. Presentation to the Bond Steering Committee and the District Citizens Oversight Committee will follow the acceptance of the Performance Audit by the Board of Trustees.

These presentations shall be no later than the last scheduled committee meeting prior to the date of March 31 of each year after the services have been contracted. Each of the subsequent years will follow this same schedule with the SCCD Board of Trustees presentations to be no later than the last meeting in December and Bond Steering Committee and District Citizens Oversight Committee presentations no later than the last scheduled committee meeting prior to the date of March 31.

Proposer Minimum Requirements for Participation in the Proposal Process

The objective of the Performance Audit is to meet or exceed the State, Federal and American Institute of Certified Public Accountants auditing standards; the Generally-Accepted Government Auditing Standards (GAGAS), informally known as the 'Yellow Book' issued by the Comptroller General and the Audit Agency of the of the United States Congress, who heads the U.S. Government Accountability Office (GAO); other auditing standards, as they may apply; applicable federal and state laws and regulations; and grant program and contractual requirements.

The GAGAS standard used to conduct the Performance Audit shall be consistent with the California Proposition 39 objective ensuring that funds are spent on the projects for which the ballot initiative indicated the funds would be used.

The selected audit firm shall consider the California Community College Budget and Accounting Manual and other such publications relating to community college accounting and performance audit procedures as may be in effect during the term of the agreement while conducting the Performance Audit.

The selected audit firm shall furnish a review and written report on SCCD's internal control structures and internal accounting and administrative controls. To do this, the audit firm shall:

1. Coordinate with Bond Program Management Office to allow for above referenced SCCD deliverables to be in a format to allow for reasonable time and resource requirements;
2. Provide at least five (5) weeks prior to commencing fieldwork a complete list of required items to be furnished by SCCD necessary for the audit firm to complete its fieldwork;
3. Meet with Counsel, including but not limited to Office of General Counsel, bond counsel, property counsel and construction counsel;
4. Perform recurring testing of bond fund expenditures during the fiscal year, including but not limited to testing and follow-up for SCCD Bond Program labor hour testing;
5. Perform testing and follow-up for SCCD bond expenditures;
6. Perform testing and follow-up for District transactions and bond expenditures;
7. Perform testing and follow-up for College Project Manager billings and bond expenditures;
8. Perform testing and follow-up for Specialty Consultants' billings and bond expenditures;
9. Perform testing and follow-up based on the District's adopted Cost Principles as well as GAGAS requirements;
10. Prepare a written report that describes the extent of compliance with the District's

adopted Cost Principles as well as GAGAS requirements;

11. Prepare a written report that describes the extent of compliance with the relevant Standard Operating Procedures.

A. PERFORMANCE AUDIT STANDARDS:

Definition

A performance audit provides reasonable assurance or conclusions based on evaluation of sufficient and appropriate evidence of fund expenditures within specified projects listed in each proposition authorizing the sale of bonds.

The performance audit should contribute to public accountability by enabling those charged with governance and oversight to improve program performance and operations, reduce costs and facilitate decision making by parties responsible to oversee or initiate corrective action.

Performance audits are defined in Government Auditing Standards issued by the Comptroller General of the United States, California Constitution Article XIII A and the California Education Code. The Comptroller General of the United States defined and specified performance audit professional standards within (GAGAS). California Senate Bill 1473, approved September 23, 2010, specified the application of GAGAS to performance audits required under California Proposition 39, the “Smaller Classes, Safer Schools and Financial Accountability Act” (Proposition 39), the California Constitution (State Constitution) Article XIII A and California Education Code (Education Code) Section 15272. GAGAS specifies the following relevant performance audit scope areas:

Compliance – Audit against compliance criteria established by laws, regulations, contract provisions and other requirements. Compliance work scope provides the minimum amount of performance audit coverage required to comply with Proposition 39, the State Constitution and the Education Code.

Economy and Efficiency, Effectiveness and Results – Focuses on resource consumption and how organizations acquire, protect and use resources as well as measuring the extent to which a program is achieving its goals. This performance audit scope area requires an objective analysis that enables management and those charged with governance and oversight to use the information to “improve program performance and operations, reduce costs, facilitate decision making by parties with responsibility to oversee or initiate corrective action and contribute to public accountability” as specified in GAGAS.

Internal Control – Assess internal controls to determine if they provide reasonable assurance of achievement of specified goals, which is a typical component in the assessment program performance.

GAGAS requires performance auditors to be independent, competent and to have internal quality controls. Relevant definitions of these criteria are as follows:

Independence – The performance audit organization and individual auditors must be free from personal, external and organizational impairments to independence and must avoid the appearance of such impairments of independence.

Competence – The performance audit organization and its professional staff should have: a) performance audit experience, b) knowledge of GAGAS, the community college environment and construction programs, c) sampling, information technology, engineering and construction audit skills, d) staff who have completed 80 hours certified professional education (24 hours applicable to GAGAS) every two years, e) compliant reporting of performance audit results, and f) proper licensing as applicable to provide the professional services to be rendered.

Quality Control – The performance audit firm must have: a) a quality control system that complies with professional standards and b) an external peer review once every three years to verify the compliant implementation of the audit organization’s quality control system.

The firm selected to conduct the Performance Audit for SCCD must satisfy all of the above criteria.

We anticipate that the audits described above will require, but will not be limited to:

Execution of a written Performance Audit report, which shall at minimum contain the following elements:

- Methodology
- Findings and/or Observations
- Discussion of cause and effect
- Recommendations for improvements
- Any and all recommendations made by the selected audit firm must align with the environment in which the SCCD’s Facilities, Planning and Development must legally and realistically operate. When recommendations involve major additions of a shifting of resources, the Performance Auditor should identify alternative procedures and controls that can be implemented in the interim until such additions or resources can be in effect.

The selected firm must align its audit with the guidelines of a GAGAS performance audit, which will require meeting and agreement with the District annually to establish the scope of work for each Performance Audit. Each year the Performance Auditor in collaboration with the District shall select three (3) to five (5) Projects to be audited, in depth, along with an audit of Program Management Office (PMO). At minimum the scope shall include:

- Interviews of key personnel including but not limited to senior management responsible for the overall Bond program, District office personnel, college facilities management, College Project Management and program management accounting and control personnel. Interview should also include key or major contractors to the program.
- Methodology to verify the compliance of the programs with the correct funding source and compliance with Proposition 39
- Methodology to verify expenditure controls and contract compliance
- Methodology to verify procurement controls to ensure competitive bidding and to avoid excessive expenditures
- Review of project close-out processes to insure best practices
- Analyses of current control/budgeting systems
- Verification of change orders

The selected audit firm shall submit draft reports for the purpose of advance discussion of the issues, findings, and recommendations to be contained in the final report. The draft report will gather responses and comments from the District/management and include them into the final report prior to submission to the Board of Trustees. The Performance Auditor shall work diligently and timely with the PMO to complete this task.

The selected audit firm shall devote such diligence, skill, and time necessary to complete the Performance Audit by November 15th of the fiscal year following the audited year in accordance with Education Code Section 84040. The final report with Management shall be timely filed with the San Diego County Clerk, the San Diego County Office of Education, the California State Board of Governors for the Community Colleges, and the State Department of Finance. Additionally, the final report shall be presented to the District Citizens Oversight Committee on or before March of each fiscal year.

The selected audit firm shall render periodic reports in the progress of the Performance Audit and examinations whenever requested by the Assistant Superintendent/Vice President for Business and Financial Affairs (AS/VPBFA) or designee.

Coordinate with the PMO to prepare and present periodic status reports for the audit areas completed, in progress, and to be completed, including dates of completion, expected start dates and expected dates of completion.

The Performance Auditor shall retain all working papers for a period of five (5) years, unless otherwise specified in writing by the District. Such papers shall be available for review and

audit by the District, representatives of the federal/state governments, subsequent audit firms and other individuals as directed by the Assistant Superintendent/Vice President for Business & Financial Affairs (AS/VPBFA) or designee. Working papers must be submitted to the requesting party within thirty (30) days of the request.

The selected audit firm shall be responsible for pulling or obtaining all sample documentation from the Program Manager Office document control system. Currently, the Bond Program utilizes Unifier for its document management system. This may change in the future. In the event of a change, the District will make best attempts to select a major and widely used document management system which the selected must be able to learn and use.

Following Board acceptance of each audit report, supply the District with a copy of all relevant work papers.

Please note that no past audits are available

B. PRESENTATIONS AND MEETINGS:

Make public presentations of the final Performance Audit report to the District’s appropriate Board of Trustees subcommittee and the full Board of Trustees for Board acceptance prior to or on the last meeting Board of Trustees in December following the audited fiscal year. In addition presentation will be made to the Bond Steering Committee and the District Citizens Oversight Committee.

Make at minimum annual or periodic presentations to the District Citizens Oversight Committee as directed by the Chancellor or designee.

Render periodic reports in the progress of the Performance Audit and examinations whenever requested by the AS/VPBFA or designee.

Attend the following meetings:

- 1. College Bond Oversight Committee – 2 every quarter
- 2. Board of Trustee Meetings – 4 hours monthly

C. MISCELLANEOUS

Be available for additional reports and meetings as directed by the Superintendent/President; Vice President for Business & Financial Affairs or designee.

Be available to work at the District Office, at the PMO offices both in downtown San Diego and at the District assigned office, which is located at the Chula Vista Campus, needed.

IV. PROPOSAL FORMAT AND CONTENT

A. COVER LETTER (See Proposal Form A for full list of required information)

The letter of transmittal shall, at a minimum, contain the following:

- Identification of the Proposer, including business name, address and telephone number;
- Name, title, address, telephone number, fax number, and e-mail address of a contact person during the period of proposal evaluation;
- A statement that the proposal shall remain valid for a period of not fewer than one-hundred eighty (180) days from the due date for proposals;
- Identification of any information contained in the proposal which the Proposer deems to be, and establishes as, confidential or proprietary and wishes to be withheld from disclosure to others under the California Public Records Act or US Freedom of Information Act (a blanket statement that all contents of the proposal are confidential or proprietary will not be honored by the District); and
- Signature of a person authorized to bind the offering firm to the terms of the proposal.

B. TABLE OF CONTENTS

Immediately following the introduction and cover letter, insert a complete table of contents for material included in the proposal, including page numbers.

C. QUALIFICATIONS, RELATED EXPERIENCE AND REFERENCES

Overview

This section should establish the ability of the proposer and any sub-consultants to satisfactorily perform the required work by reasons of: demonstrated competence in the services to be provided; nature and relevance of similar work recently completed for other clients; record of meeting schedules and deadlines on other projects; competitive advantages over other firms in the same industry; strength and stability as a business concern; and supportive client references. Information should be furnished for both the proposer and any sub-consultants included in the offer.

Instructions

Furnish background information about your firm, including date of founding, legal form (i.e., sole proprietorship, partnership, LLC, corporation/state of incorporation), number and location of offices, principal lines of business, number of employees, days/hours of operation and other pertinent data.

Disclose any conditions (e.g., bankruptcy or other financial problems, pending litigation,

planned office closures, impending merger) that may affect the Proposer's ability to perform contractually. Certify that the firm is not debarred, suspended or otherwise declared ineligible to contact by any federal, state or local public agency.

Identify at least three (3) current similar clients that the District may contact as references and visit your firm has done business with in the last five (5) years, preferably public agencies such as other community college districts or other schools or college district clients which the SCCD may contact as references. Describe the work performed and include the name, job title, address and telephone number of a contact person for each reference.

Describe your firm's most noteworthy qualifications for providing the required services to the District. Specifically highlight those qualifications that you feel would distinguish you from your competitors. Failure to provide this information will result in zero (0) points being awarded in this section.

Financial information audited or reviewed financial statements may be requested by the District prior to award of RFP.

D. STAFFING AND ORGANIZATION

Overview

This section should discuss the staff of the proposing firm who would be assigned to work on this engagement and their reporting relationships.

Content

Identify the key personnel from your firm that would be assigned to SCCD's project. Include a brief description of their qualifications, professional certifications, job functions, and office location(s). Designate a Project Manager who would provide day-to-day direction of the required work and become SCCD's primary contact person. Furnish brief resumes (not more than one page, resumes do not count against the above page limitation) for all key personnel; include these as an appendix, not in the body of the proposal. Specifically describe the staff experience in the area of auditing community college districts, bond funds and other government agencies.

Key Personnel must:

- Understand and apply appropriate professional standards, including Generally Accepted Government Auditing Standards (GAGAS).
- Have appropriate knowledge, skills and discipline for the conduct of a local education agency Performance Audit.
- Have the qualifications necessary to provide the needed Scope of Services.

Partner/In-charge Performance Auditor shall be a GAGAS “Yellow Book” certified public accountant, currently licensed in the State of California.

Project Manager shall coordinate the activities of the audit staff and shall be liaison between the Performance Auditor and the District. The Project Manager shall be readily accessible and respond on a timely basis to the District at all times.

Provide a current organization chart indicating the specific personnel to be assigned to each aspect of the Performance Audit and to provide the needed Scope of Services. The organization should chart clearly delineates communication and reporting relationships among the project staff.

E. WORK PLAN/TECHNICAL APPROACH

Overview

This section should establish the Proposer's understanding of the District's objectives and requirements, demonstrate the Proposer's ability to meet those requirements and outline clearly and concisely the plan for accomplishing the specified work, as outlined in Section III: Scope of Work.

Content

Describe succinctly what services would be provided, initially and ongoing, to accomplish the work and satisfy the District's objectives described in this RFP. Highlight those services that exceed the specifications outline in this document’s Scope of Work but which will be offered to the District as part of the proposed fee.

Sample audit planning document - A Strategic Plan which describes how your firm would accomplish the Scope of Services described in this RFP including three (3) examples of significant audit risks for Community College Bond Programs.

Milestones for measuring work progress, expressed as completed major tasks or other work segments;

Deliverables to be furnished to SCCD throughout the term of this agreement, (e.g. Strategic Plan, Production Reports, and all accounting work papers.) Describe any other services to be made available to the District on a fee-for-service basis.

Describe what information, documents, staff assistance, facilities or other resources you would require from SCCD to accomplish your work. Declare any other critical assumptions upon which your work plan is based.

F. SCHEDULE OF FEES (See Proposal Form B)

Overview

This section should disclose all charges to be assessed the District for the Scope of Work and declare the Proposer's preferences for funding and payment.

Content

The firm fixed price provided must accomplish the identified goals with a breakdown of all products and hourly rates for implementation for an all-inclusive total price inclusive of applicable taxes. Additional tasks, if required, will be performed at the identified rates if you intend increases on Exhibit F, please provide a per-year hourly rate breakdown. Use the attached Exhibit F, provide the cost and price breakdown, and include, as part of the breakdown of costs, the number of hours and rate/hour by staff level to be assigned to the audit.

Specify annual hours for the Annual Performance Audit broken down by staffing.

Partner:	_____
Project Managers:	_____
Senior / Staff:	_____
Clerical / Administration:	_____

As a part of the annual audit process and outside the agreed upon scope include a 200 hours allowance per year for District written requests to review and evaluate specific procedures, contracts, project controls, and program controls beyond the scope set herein. This review may be requested to be conducted as an expansion of the annual Performance Audit or to be conduct outside that time period.

G. APPENDICES

Furnish as appendices those supporting documents (e.g., staff resumes, organization charts and summaries) requested in the preceding instructions.

Provide a sample of utilization reports, (preferably for a community college client) detailing the report parameters and frequency for which reporting would be performed and submitted to the District. In addition, provide samples of an annual executive summary and customer satisfaction survey.

Include any additional information you deem essential to a proper evaluation of your proposal and which is not solicited in any of the preceding sections.

Proposers are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous material; appendices should be relevant and brief.

H. MANDATORY DOCUMENTS TO BE SUBMITTED IN RESPONSE

1. Completed and signed Non-Collusion Affidavit (Exhibit A)
2. Completed and signed Certificate of Non-Discrimination (Exhibit B)
3. Completed Confidentiality Agreement (Exhibit C)
4. Acknowledgement of all addenda issued by the District (Exhibit D)
5. Exceptions and deviations to the standard agreement (Exhibit E)
6. Cost Proposal (Exhibit F)

GRACE PERIOD FOR MISSING OR INCORRECT FILING OF EXHIBITS “A” THROUGH “F” ONLY:

In the event that a Proposer fails to submit all or any part of items 1 through 6 above with its submission or if any submitted item is incomplete or incorrect, the Contracts Unit will notify the Proposer and the Proposer shall have an additional three (3) business days to submit the missing item to the Contracts Unit. Failure to submit the missing item will result in the disqualification of the Proposer if the mandatory item is missing entirely. Failure to complete or correct a mandatory item will result in the Proposer’s Proposal being considered in the form in which it was originally submitted. Failure to submit mandatory items after the grace period will result in the proposal being deemed non-responsive.

PROPOSAL FORM A
General Information

1. Cover Letter

Cover letter to District in addition to the Proposers narrative must include the information noted below in a letter format.

The individual who is authorized to bind your firm in Bond Performance Audit Services Proposal (hence, "Proposer") contractually must sign the cover letter, must indicate the signatory is so authorized, and must indicate the title or position of the signatory. **An unsigned cover letter shall cause the proposal to be rejected.** The cover letter must contain a statement that the Proposer acknowledges that all documents submitted pursuant to this request for proposal process will become a matter of public record. The letter must contain the following:

- The Proposer's name, address, e-mail, telephone, and facsimile number.
- The Proposer's Federal Employer Identification Number and Corporate Identification Number, if applicable.
- The name, title or position, and telephone number of the individual signing the cover letter and statement signatory is authorized to bind the firm.
- The name, title or position, and telephone number of the primary contact and/or account administrator, if different from the individual signing the cover letter.
- A statement to the effect that the proposal is a firm and irrevocable offer, good for 90 days. **Please complete ALL Proposal Forms, Exhibits and Appendices as part of your RFP response.**
- A statement expressing the Proposer's willingness to perform the services as described in this RFP.
- A statement indicating that all forms, certificates and compliance requirements included in this RFP are completed and duly submitted in the proposal response.
- A statement that there is no conflict of interest. Use Form E.
- A statement expressing the Proposer's availability of staff and other required resources for performing all services and providing all deliverables within the specified time frames as described in the RFP.

2. Proposer Firm Information

- Type of Firm:

Corporation: _____ Proprietorship: _____ Partnership: _____

Joint Venture: _____ Other (please describe): _____

- Business License Number: _____

- Number of years in business under firm name: _____

- Has the firm changed its name within the past 3 years?

YES NO

If yes, provide former name(s): _____

- Have there been any recent (within the last three years) changes in control/ownership of the firm?

YES NO

If yes, explain. _____

- Have officers or principals of the firm ever had their business license suspended or revoked for any reason?

YES NO

If yes, please explain. _____

PROPOSAL FORM B MANDATORY RESPONSES

Each proposal shall specifically address ALL questions. Please refrain from submitting general audit materials and other non-related materials. Each question should be numbered and be followed by the corresponding response.

1. How long has your firm been performing the services required by this RFP?
2. How many years has the firm been in business?
3. How many campuses do you currently support for the proposed services, including
 - How many in California?
 - How many are California Community Colleges/Districts?
4. Include a minimum of three (3) clients within California Community Colleges that the District may contact for reference purposes. Provide the client entity name, years serviced, primary contact name and title, phone number, e-mail and mailing address.
5. List any claims or litigation against your Firm which may impact your ability to provide the services requested in this document.
6. Identify key elements that differentiate your company and product from other companies in the field. Why is your firm our best choice?
7. Include any additional information you deem relevant to this section and feel is a must read for the review committee,

**PROPOSAL FORM C
PERSONNEL EXPERIENCE**

Please provide the name(s), title(s), qualification(s), license information, availability and location of key staff members and supervisory personnel expected to work on this project, using the form below. Use additional forms as necessary.

Name: _____

Title: _____

Office Location: _____

Qualification/License: _____

Role: _____

How Long in Current Position? _____ How Long with Relevant Experience _____

How Long Licensed in CA? _____ Community College Transaction Experience? _____

Community College Experience	
Number of Years	District

Brief Profile: _____

Other Relative Experience: _____

COPY THIS FORM AS NEEDED TO SUBMIT A COMPLETE PACKAGE.

PROPOSAL FORM D FEE AND RATE PROPOSAL
--

COST PROPOSAL

Schedule of Professional Fees and Expenses
 For the Annual Performance Audit of the Bond Funds
 Please provide the hourly rates for Years 1 through 5

Proposed Staff	Total number of hours proposed per year	Year 1	Year 2	Year 3	Year 4	Year 5
Partner/ In Charge						
Managers						
Supervisory Staff						
Staff						
Other (Specify)						
Reimbursables						

Total Fee for RFP Performance Audit Payment

Schedule shall be as follows:

1. Cost of quarterly updates:
2. Cost of interim testing with findings presented to Management:
3. Cost of year-end field work with draft report to Management:
4. Cost of final report presented to the Board of Trustees:

PROPOSAL FORM E GENERAL TERMS AND CONDITIONS

Offer Held Firm: The Proposer agrees that it will not withdraw its offer for a period of *ninety (90)* calendar days from the opening date.

Right to Reject: The Proposer understands that the District reserves the right to reject any or all proposals and to waive any informality in the evaluation of proposals. The District intends to verbally negotiate with the Proposers to reach a final agreement.

Bidder Certification: The Proposer certifies that this bid is made without previous understanding, agreement or connection with any person, firm, or corporation making a bid on the same services, and is in all respects fair and "without collusion or fraud."

Execution of a Contract: If awarded a contract, the Proposer agrees to execute a contract in accordance with this Proposal and the District's Instructions for Submittal of Proposals, Information for Proposers, General Conditions, and Service Requirements within twenty-one (21) calendar days of receipt of written notice of acceptance of the Proposal by the District.

Assumption of Contract: The Proposer agrees to assume operations under the contract on June 13, 2023 or within ten (10) calendar days following the District's notification to proceed, whichever date both parties have agreed to.

Exceptions to Specifications: In submitting a proposal, the Proposer affirms acceptance of the complete Conditions Specifications and Requirements associated with the District's RFP document, unless otherwise stipulated. Any variances or exceptions which the Proposer wishes to note with respect to any of the Conditions, Specifications, or any District Service Requirements are to be stated herein or in an attachment to the bid submittal which is to be titled "Exceptions."

Conflicts of Interest: All Proposers must disclose the name of any Board of Trustees member, officer, director, or agent who is an employee of the Southwestern Community College District, which includes any District employee. Further all Proposers must disclose the name of any District or District employee, or Board of Trustees member, who has, directly or indirectly, any financial interests in the Proposer's firm or any of its branches. Submit this information on an attachment to the proposal which is titled "Conflict of Interest" and include the person's name, interest or position, and percent of ownership, if applicable.

Required Submittals: The Proposer's detailed responses to the District's specifications and evaluation criteria must accompany this Proposal.

District's Right to Award: The signer hereby acknowledges that the District reserves the right to make the award to the Proposer which the District judges to have submitted the proposal most favorable to the District, with the District being the sole judge thereof.

Legally Binding it is further certified that the person whose signature appears below is legally empowered to bind the company in whose name the proposal is entered.

SUBMITTED BY:

Company Name: _____

Contact Person: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax: _____

Email: _____

By: Signature (Manual)

By: Signature (Typed or Printed)

**PROPOSAL FORM F
REFERENCES**

Each Proposer must be able to present both current and past evidence of satisfactory experience in providing services requested. The District is particularly interested in evaluation references of 2-year public community colleges similar to size and function of Southwestern Community College. Please list three (3) current and three (3) past references for California educational or governmental entities that can be contacted for an assessment of current or past client satisfaction using the format outlined below.

REFERENCES

Name of Entity: _____

Contact Person: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____ Fax: _____

Email: _____

Dates of Services: From: _____ To: _____

Types of Services Provided: _____

COPY THIS FORM AS NEEDED TO SUBMIT A COMPLETE PACKAGE.

PROPOSAL FORM G
Addenda Acknowledgement

Addenda: Changes or corrections to the proposal document will be issued via a numbered addendum format at the time of the pre-proposal conference or at least five (5) calendar days prior to submittal date. Record below the number(s) and date(s) of addenda received, if applicable.

Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____
Addendum # _____	Date Received: _____

EXHIBIT A

**NONCOLLUSION AFFIDAVIT
TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH ITS PROPOSAL**

(Name) _____, being first duly sworn, disposes and says that he or she is (Title) _____ of (Company) _____, the party making the foregoing proposal, that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing; that the proposer has not in any manner, directly, or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusion or sham proposal.

IN WITNESS WHEREOF, the undersigned has executed this Non-Collusion Affidavit this _____ Day of _____, _____

PROPOSER _____
(Type or Print Complete Legal Name of Firm)

By _____
(Signature)

Name _____
(Type or Print)

Title _____

Address _____

City _____ State _____ Zip _____

EXHIBIT B

CERTIFICATION OF NON-DISCRIMINATION

TO BE EXECUTED BY PROPOSER AND SUBMITTED WITH ITS PROPOSAL

Proposer hereby certifies that in performing work or providing products for the District, there shall be no discrimination in its hiring or employment practices because of age, sex, race, color, ancestry, national origin, religious creed, physical handicap, medical condition, marital status, or sexual orientation, except as provided for in Section 12940 of the California Government Code. Proposer shall comply with applicable federal and California anti-discrimination laws, including but not limited to the California Fair Employment and Housing Act, beginning with Section 12900 of the California Government Code.

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Non-Discrimination this _____ day of _____, _____.

PROPOSER _____

(Type or Print Complete Legal Name of Firm)

By _____

(Signature)

Name _____

(Type or Print)

Title _____

Address _____

City _____ State ____ Zip _____

EXHIBIT C

CONFIDENTIALITY AGREEMENT

The undersigned, a duly authorized officer of

_____, does hereby
represent, warrant and agree to the following statement:

All financial, statistical, personal, technical or other data and information relating to the District's operation which are designated confidential by the District and made available to the undersigned shall be protected by the undersigned from unauthorized use and disclosure.

Date: _____

Name of Proposer

By: _____

Authorized Officer

EXHIBIT D

EXCEPTIONS AND DEVIATIONS TO THE STANDARD AGREEMENT

Certain exceptions and deviations may deem the proposal non-responsive and result in rejection of the proposal.

The Proposer acknowledges it has seen and reviewed the standard agreements provided as Exhibit F and attests to the following.

1. Proposals that mandate the use of Proposer standard contract, rather than utilizing the District's standard contract.
2. Proposals that reject the following integral provisions of the District's contract terms and conditions will be treated as a rejection of the District's contract and these proposals will be rejected.
 - Term of Agreement
 - Indemnification
 - Governing Law
 - Non-Discrimination
 - Accessibility
 - Board Authorization

In the event that exceptions and deviations to any of the attached Agreements are requested after the contract has been awarded, the District may deem the proposal non-responsive and may disqualify the proposal at its discretion.

As applies to Exhibit G: Standard Agreement, check one of the following:

- We have no exceptions or deviations.
- We have the following or attached exceptions and/or deviations.

PROPOSER _____
(Type or Print Complete Legal Name of Firm)

By _____
(Signature)

Name _____
(Type or Print)

Title _____

Address _____

City _____ State _____ Zip _____

EXHIBIT E

Sample - PROFESSIONAL SERVICES AGREEMENT

PARTIES: SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

AND:

("Contractor")

DATE:

TERM: From: To:

RECITALS

WHEREAS, the District is authorized to contract for the procurement of professional services as authorized by law; and

WHEREAS, the Contractor is specially licensed, trained, experienced and competent to perform the services described herein pursuant to this agreement;

NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereby agree as follows:

AGREEMENT

1. SERVICES. The Contractor shall perform the Services set forth in Appendix "1" (the "Services") in compliance with specifications and standards set forth in that Appendix. The District shall have the right to order, in writing, changes in the scope of work or under the Services to be performed with any applicable version of the compensation paid hereunder agreed upon by the District and the Contractor. Any adjustment to fees, rate schedules, or schedule of performance can only be adjusted pursuant to written agreement between the parties.

2. CONTRACT DOCUMENTS. The complete contract between the Contractor and the District includes the following documents as applicable: the advertisement for Request for Proposals (“RFP”), the RFP conditions, requirements and specifications, the Proposal of the Contractor and its acceptance by the District, the District’s contract, and all amendments thereto. Any of these documents shall be interpreted to include all provisions of the other documents as though fully set forth therein.

Notwithstanding anything to the contrary contained in the agreement between the District and the Provider, and/or in case of any conflicting terminology between the Provider’s proposal and the District’s contract terms and conditions, the District’s RFP conditions and instructions and the District’s Agreement terms and conditions shall apply and prevail.

3. WARRANTIES. The Contractor warrants and represents that it is specially trained, qualified, duly licensed, experienced, and competent to provide the Services. The Contractor warrants that Services (and any goods in connection therewith) furnished hereunder will conform to the requirements of this agreement (including all descriptions, specifications and drawings made a part hereof) and in the case of goods will be merchantable, fit for their intended purposes, free from all defects in materials and workmanship and to the extent not manufactured pursuant to detailed designs furnished by the District, free from defects in design. The District’s approval of designs or specifications furnished by the Contractor shall not relieve the Contractor of its obligations under this warranty. All warranties, including special warranties specified elsewhere herein, shall inure to the District, its successors, assigns, and users of the goods or services.

4. FEES. The District shall pay the Contractor the fees set forth in Appendix 2, in accordance with the terms and conditions of this Agreement. The Contractor represents that such fees do not exceed the Contractor’s customary current price schedule. The District shall pay all applicable taxes; excepting, however, the federal excise tax, and all state and local property taxes, as college districts are exempt therefrom. Payment shall be made by the District upon submittal of invoice(s) approved by the authorized administrator at the Educational Services Center.

5. EXPENSES. The Contractor shall assume all expenses incurred in connection with performance except as otherwise provided in this agreement.

6. TERM OF AGREEMENT. This agreement shall be for the term set forth above, unless sooner terminated pursuant to the terms hereof.

7. TERMINATION OF AGREEMENT. This agreement may be terminated by the District by providing 30 days' prior written notice to the Contractor or immediately upon breach of this agreement by the Contractor or without cause.

8. DOCUMENTATION. The Contractor agrees to provide to the District, at no charge, a sufficient number of nonproprietary manuals and other printed materials, as used in connection with the Services, and updated versions thereof, which are necessary or useful to the District in its use of the Services provided hereunder.

9. RIGHTS IN DATA. All technical communications and records originated or prepared by the Contractor pursuant to this agreement including papers, reports, charts, computer programs, and other documentation, but not including the Contractor's administrative communications and records relating to this agreement shall be delivered to and shall become the exclusive property of the District and may be copyrighted by the District. The ideas, concepts, know-how, or techniques relating to data processing, developed during the course of this agreement by the Contractor or jointly by the Contractor and the District can be used by either party in any way it may deem appropriate. All inventions, discoveries or improvements of the computer programs developed pursuant to this agreement shall be the property of the District. During the term of this agreement, certain information which the District deems confidential ("Confidential Information") might be disclosed to the Contractor. The Contractor agrees not to divulge, duplicate or use any Confidential Information obtained by the Contractor during the Contractor's engagement. Such Confidential Information may include, but is not limited to, student and employee information, computer programs, and data in the District's written records or stored on the District's computer systems.

10. CONTRACTOR ACCOUNTING RECORDS. Records of the Contractor's directly employed personnel, other consultants and reimbursable expenses pertaining to the work and records of account between the District and the Contractor shall be maintained on an accounting basis acceptable to the District and shall be available for examination by the District or its authorized representative(s) during regular business hours within one (1) week following a request by the District to examine such records. Failure by the Contractor to permit such examination within one (1) week of a request shall permit the District to withhold all further payments until such examination is completed unless an extension of time for examination is authorized by the District in writing.

11. RELATIONSHIP OF PARTIES. With regard to performance hereunder, the Contractor is an independent contractor and not an officer, agent, partner, joint venturer, or

employee of the District. The Contractor shall not, at any time, or in any manner, represent that it or any of its agents or employees is in any manner agents or employees of the District.

12. DISTRICT REPRESENTATIVE. The contact person set forth above or his or her designee shall represent the District in the implementation of this agreement.

13. WAIVER OF DAMAGES; INDEMNITY. The Contractor hereby waives and releases the District from any claims the Contractor may have at any time arising out of or relating in any way to this agreement, except to the extent caused by the District's willful misconduct. Notwithstanding the foregoing, the parties agree that in no event shall the District be liable for any loss of the Contractor's business, revenues or profits, or special, consequential, incidental, indirect or punitive damages of any nature, even if the District has been advised in advance of the possibility of such damages. This shall constitute the District's sole liability to the Contractor and the Contractor's exclusive remedies against the District. Except for the sole negligence or willful misconduct of the District the Contractor shall indemnify, hold harmless and defend the District and its Board of Trustees, officers, employees, and agents from any liability, losses, costs, damages, claims, and obligations relating to or arising from this agreement.

Without limiting the foregoing, the Contractor shall indemnify and hold harmless the District, and its Board of Trustees, officers, employees, and agents from all liability, losses, costs, damages, claims, and obligations of any nature or kind, including attorneys' fees, costs, and expenses, for infringement or use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance, registered or unregistered trademark, servicemark, or tradename, furnished or used in connection with this agreement. The Contractor, at its own expense, shall defend any action brought against the District to the extent that such action is based upon a claim that the goods or software supplied by the Contractor or the operation of such goods infringes a patent, trademark, or copyright or violates a trade secret.

14. INSURANCE. Without limiting the Contractor's indemnification of the District and as a material condition of this agreement, the Contractor shall procure and maintain at its sole expense, for the duration of this agreement, insurance coverage with limits, terms and conditions at least as broad as set forth in this section. The Contractor shall secure and maintain, at a minimum, insurance as set forth below, with insurance companies acceptable to the District to protect the District from claims which may arise from operations under this agreement, whether such operations be by the Contractor or any subcontractor or anyone directly or indirectly employed by any of them. As a material condition of this agreement, the Contractor shall furnish to the District certificates of such insurance and endorsements, which shall include a provision for a minimum thirty-days' notice to the District prior to cancellation of or a material change in coverage.

The Contractor shall provide the following insurance:

a) Commercial General Liability Insurance, "occurrence" form only, to provide defense and indemnity coverage to the Contractor and the District for bodily injury and property damage. Such insurance shall name the District as an additional named insured and shall have a combined single limit of not less than one million dollars (\$1,000,000) per occurrence. The policy so secured and maintained shall include personal injury, contractual or assumed liability insurance; independent contractors; premises and operations; products liability and completed operation; broad form property damage; broad form liability; and owned, hired and non-owned automobile insurance. The policy shall be endorsed to provide specifically that any insurance carried by the District which may be applicable to any claim or loss shall be deemed excess and non-contributory, and the Contractor's insurance primary, despite any provisions in the Contractor's policy to the contrary.

b) Professional liability insurance in an amount not less than one million dollars (\$1,000,000) per incident.

c) Workers' Compensation Insurance with limits as required by the Labor Code of the State of California and Employers Liability insurance limits of not less than one million dollars (\$1,000,000) per accident.

Failure to maintain the insurance and furnish the required documents may terminate this agreement without waiver of any other remedy the District may have under law.

15. AMENDMENTS. This agreement is the entire agreement between the parties as to its subject matter and supersedes all prior or contemporaneous understandings, negotiations, or agreements between the parties, whether written or oral, with respect thereto. This agreement may be amended only in a writing signed by both parties.

16. ASSIGNMENT. This agreement may not be assigned or otherwise transferred, in whole or in part, by either the District or the Contractor without prior written consent of the other.

17. GOVERNING LAW. This agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the parties hereunder, and any action arising from or relating to this agreement, shall be construed and enforced in accordance with, and governed by, the laws of the State of California or United States law, without giving effect to conflict of laws principles. Any action or proceeding arising out of or relating to this agreement shall be brought in the county of Los Angeles, State of California, and each party hereto irrevocably consents to such jurisdiction and venue, and waives any claim of inconvenient forum.

18. NONDISCRIMINATION. The Contractor hereby certifies that in performing work or providing services for the District, there shall be no discrimination in its hiring, employment

practices, or operation because of sex, race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status, or sexual orientation, except as provided for in section 12940 of the Government Code. The Contractor shall comply with applicable federal and California anti-discrimination laws, including but not limited to, the California Fair Employment and Housing Act, beginning with Section 12900 of the California Government Code, the provisions of the Civil Rights Act of 1964 (Pub. L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (Pub.L. 92-318) and the Regulations of the Department of Education which implement those Acts. The Contractor agrees to require compliance with this nondiscrimination policy by all subcontractors employed in connection with this agreement.

19. EQUAL OPPORTUNITY EMPLOYER. The Contractor, in the execution of this agreement, certifies that it is an equal employment opportunity employer.

20. ATTORNEYS' FEES AND COSTS. If either party shall bring any action or proceeding against the other party arising from or relating to this agreement, each party shall bear its own attorneys' fees and costs, regardless of which party prevails.

21. BOARD AUTHORIZATION. The effectiveness of this agreement is expressly conditioned upon approval by the District's Board of Trustees.

22. SEVERABILITY. The Contractor and the District agree that if any part, term, or provision of this agreement is found to be invalid, illegal, or unenforceable, such invalidity, illegality, or unenforceability shall not affect other parts, terms, or provisions of this agreement, which shall be given effect without the portion held invalid, illegal, or unenforceable, and to that extent the parts, terms, and provisions of this agreement are severable.

23. TERMINATION FOR NON-APPROPRIATION OF FUNDS. If the term of this agreement extends into fiscal years subsequent to that in which it is approved, such continuation of the agreement is contingent on the appropriation and availability of funds for such purpose, as determined in good faith by the District. If funds to effect such continued purpose are not appropriated or available as determined in good faith by the District, this agreement shall automatically terminate and the District shall be relieved of any further obligation.

24. NOTICE. Any notice required to be given pursuant to the terms of this agreement shall be in writing and served personally or by deposit in the United States mail, postage and fees fully prepaid, addressed to the applicable address set forth above. Service of any such notice if given personally shall be deemed complete upon delivery, and if made by mail shall be deemed complete on the day of actual receipt or at the expiration of 2 business days after the date of mailing, whichever is earlier.

25. CONFLICTS OF INTEREST. The Contractor agrees not to accept any employment or representation during the term of this agreement which is or may likely make the Contractor financially interested. (as provided in California Government Code Sections 1090 and 87100) in any decision made by the District on any matter in connection with which the Contractor has been retained pursuant to this agreement.

26. REQUIREMENTS FOR FEDERALLY FUNDED CONTRACTS.

A.) If this Agreement is funded by the District, in whole or in part, from revenues received from the Federal Government, then the following additional provisions shall apply. It shall be the Contractor's responsibility to ascertain if Federal funds are involved.

B.) Contractor, and any subcontractors at any tier, shall comply with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

C.) No contract, or any subcontract at any tier, shall be made to parties listed on the General Services Administration's List of Parties Excluded from Federal Procurement or Non-procurement Programs in accordance with E.O.s 12549 and 12689, "Debarment and Suspension." This list contains the names of parties debarred, suspended, or otherwise excluded by agencies, and contractors declared ineligible under statutory or regulatory authority other than E.O. 12549. Contractors with awards that exceed the small purchase threshold (currently \$100,000) shall provide the required certification regarding its exclusion status and that of its principal employees.

27. DISTRICT AUTHORITY. The Director of Business Services, Contracts Manager, Chief Facilities Executive, Director of Facilities Planning and Development, College President or Vice President of Administrative Services have delegated authority from the District Board of Trustees to bind District contractually. Persons acting in positions not specified above or have specific delegated authority by the Board of Trustees and those in the capacity as project managers or consultants to District do not have authority to: (1) obligate or commit District to any payment of money; (2) obligate District to any modification to this Contract or the Contract Sum; (3) relieve Contractor of any of its obligations under this Contract; or (4) approve or order any Work to be done or materials, equipment or supplies to be delivered.

28. ACCESSIBILITY REQUIREMENTS. The Proposer hereby warrants that the products or services to be provided under this agreement comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. Proposer agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Proposer further agrees to indemnify and hold harmless the District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with

these requirements shall constitute a breach and be grounds for termination of this agreement.”

IN WITNESS WHEREOF, the parties hereto have executed this agreement in San Diego, California, on the date set forth above.

**SIGNATURE LINES WILL BE ADDED
ONCE THE CONTRACT HAS BEEN AWARDED**