



Oceanside Unified School District

**RFQ 2022-21-025Q
REQUEST FOR
QUALIFICATIONS
FOR
HAZARDOUS ASSESSMENTS
SERVICES
For District Wide Projects (Pool)**

**January 28, 2022
February 4, 2022**

OCEANSIDE UNIFIED SCHOOL DISTRICT**SECTION 1 - GENERAL INFORMATION****1.1 INTRODUCTION**

- 1.1.1** The Oceanside Unified School District (OUSD) is inviting Statements of Qualifications (SOQ) from interested and qualified firms (“Consultant”) to provide comprehensive professional services for various projects. The District expects to conduct significant construction projects throughout the District. This RFQ seeks to pre-qualify Consultants that demonstrate the highest level of experience and capability to provide Hazardous Assessments Services for District Wide Projects (Pool).

Selection will result in a pool of Service Providers (“Pool”) expected to provide comprehensive services to the District on an as-needed basis. Section 3 of this document outlines the requirements, selection process, and documentation necessary to submit qualifications in response to this solicitation.

Services may include, but is not limited to:

- **Hazardous Materials Consulting Services:** Perform visual evaluations of potential hazardous chemical and/or ballasts to determine the need for additional mitigation efforts required for safe demolition. The consultant is expected to visit projects sites and determine which materials require sampling. The consultant is expected to take bulk samples of all materials that are suspected to be hazardous, including all unmarked containers containing unknown substances. The following items may require sampling including but not limited to: paint and window caulking, PCB ballasts, mercury thermostats and light switches, cooling units, air conditioner, and water fountains, and other suspect items.

- 1.1.2** The District may modify the RFQ prior to the deadline for submittals by issuance of an electronic addendum on the District’s website [here](#). Consultants must respond to acknowledge of receipt of the addenda in their cover letter. Failing to do so may result in the response being deemed non-responsive.
- 1.1.3** Selection of Firms will be performed by the District evaluation committee (“Committee”) and based on the written responses to this RFQ. If the District determines it to be in their best interest, interviews may be arranged as part of the selection process.
- 1.1.4** Following identification of qualified Consultants selected for the Pool, the District may request a project-specific Request for Proposal (“RFP”) on an as-needed basis from the Pool. A project specific “Agreement” will be issued to the Consultant(s) which, in the judgment of the District, best accomplishes the desired results, and shall include, but not be limited to, a consideration of the professional service fee.
- 1.1.5** Pre-qualified Consultants in the Pool will be eligible to provide scope and fee proposals for specific assignments (“Addendum”) upon request from the District. The District reserves the right to request proposals from outside of the Pool of services at any time.
- 1.1.6** Consultant shall provide all services required by, and in accordance with, the Agreement and such other necessary and incidental services that are required to provide professional services for the project(s).

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1.2 RFQ ISSUING OFFICE

- 1.2.1** RFQ is issued by the Oceanside Unified School District, Bond Program Management. A copy of this RFQ may be obtained by downloading it from OUSD's website at <https://www.oside.us/Page/1160>.
- 1.2.2** All questions concerning this RFQ shall be submitted in writing by e-mail to ashley.gerhard@oside.us on or before **5 p.m., Friday, February 11, 2022**. Indicate the RFQ number and title in the subject line. Contact with OUSD shall be made only through e-mail; telephone calls will not be accepted. Answers to questions will be posted on the District Website via addenda.
- 1.2.3** All notices, clarifications, and addenda to this RFQ shall be posted on the OUSD website. OUSD is not responsible for sending individual notification of changes or updates. ***It is the sole responsibility of the proposing Consultants to remain apprised of changes to this RFQ as shown on the district website.***

1.3 SELECTION SCHEDULE

1.3.1 Schedule:

- | | |
|-----------------------------------|------------------------|
| a) Issue RFQ: | 01/28/2022, 02/04/2022 |
| b) Deadline for Questions (5 pm): | 02/11/2022 |
| c) Addenda Issued (if needed) | 02/14/2022 |
| d) SOQ Due Date: | 02/18/2022 |
| e) Review & Score SOQ | 02/18/2022- 02/21/2022 |
| f) Notify Firms | 02/24/2022 |
| g) Board Approval: | 03/08/2022 |

- 1.3.2** Delivery: Sealed SOQ's will be accepted no later than **2 p.m., Friday February 18, 2022**.

Delivery

Oceanside Unified School District
ATTN: Bond Management Office, Ashley Gerhard
2111 Mission Ave Oceanside, CA 92058

Note: OUSD *will not* accept postmarks or fax responses. SOQs must be received at the above address by the deadline indicated.

- 1.3.3** SOQs received after the deadline shall be rejected without review and shall be returned to proposing Consultant unopened via U.S. Mail.
- 1.3.4** OUSD is not liable for SOQs delivered to the wrong address.

*** We understand that Covid-19 has changed the way some Firms submit; however, at this time the District is still requiring hard copies of the proposals.**

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1.4 REJECTION OF SOQ

- 1.4.1** OUSD reserves the right to reject any or all SOQs received in response to this RFQ, to cancel this RFQ or to terminate the selection proceedings at any time, if it determines such action is in the best interest of OUSD.

1.5 AWARDS OF AGREEMENT

- 1.5.1** Award of Agreement, if made, will be in accordance with this RFQ and subsequent RFP, to responsible Consultants submitting a SOQ compliant with all the requirements of this RFQ and any addenda thereto.

(END OF SECTION)

SECTION 2 - SCOPE OF WORK

2.1 LOCATION AND DESCRIPTION OF PROJECT

- 2.1.1 Projects are TBD: District Wide Projects (Pool) Oceanside, CA 92058. Projects may include but are not limited to: modernization, new construction, and demolition.

2.2 PROJECTED TIMETABLE

- 2.2.1 Contract negotiations following the RFP process will include time constraints for individual projects.

2.3 SAMPLE SCOPE OF WORK

2.3.1 Provide State of California, Division of Occupational Safety and Health, Certified Asbestos Consultant(s) (CAC) or Certified Site Surveillance Technician(s) (CSST), for asbestos-related services.

Review sites and scope of work and/or specification and plans for proposed construction activities to determine the type of work that will occur on the project. Meet with District Project Manager and where applicable, other consultants, to perform on-site inspections of the locations involved in the project to determine where asbestos containing materials may be present or are in close proximity to the work and could be impacted, as a result of the project. Inspections shall include accessing inaccessible spaces and the collection of bulk samples of suspect materials not identified as positive or negative for asbestos content. Sampling to be conducted in accordance with EPA/AHERA established sampling protocols and asbestos analysis shall be performed by an NVLAP Accredited Laboratory.

2.3.2 Lead-Related Consulting Services

Provide staff with State of California, Department of Health Services Lead Certification to perform lead-related services.

Review sites and scope of work and/or specification and plans for proposed construction activities to determine the type of work that will occur on the project. Meet with District Project Manager and where applicable, other consultants, to perform on-site inspections of the locations involved in the project to determine where lead-based paint may be present, or are in close proximity to the work and could be impacted, as a result of the project. Lead-based paint testing will be performed using a portable X-ray fluorescence (XRF) analyzer. Paint chip and/or dust samples may be collected for confirmation.

2.3.3 Hazardous Materials Consulting Services

Perform a visual evaluation of potential hazardous chemicals and/or ballasts to determine the need for additional mitigation efforts required for safe demolition. The Consultant is to visit the project site and determine what materials require sampling. The Consultant is to take bulk samples of all materials that are suspected to be hazardous including all unmarked containers containing unknown substances. The following items may require sampling:

- Paint and window caulking
- PCB Ballasts
- Mercury thermostats and light switches
- Cooling units, air conditioners and water fountains
- Other suspect items

2.3.4 Assessment Reports and Abatement Plans

Prepare an Assessment Report for each project and in the case of projects involving site acquisition, subsections by each property parcel including a description of the site conditions, details of the site inspection/investigations, site drawings indicated sampling locations, site photographs and laboratory results with a summary of all identified asbestos,

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lead or hazardous materials. Prepare recommendations and an abatement plan with an estimate of costs for abatement of the materials that will impact the project/parcels. The abatement plan shall include an Abatement Scope of Work and Abatement Technical Specifications to be included in the Project Bid Documents. Review and approve the contractor's abatement and disposal plan for compliance with the plan. Review and monitor the certifications and medical clearances for all personnel proposed or assigned to the job.

2.3.5 Construction & Closeout Phase

During the course of construction, monitor abatement work to ensure compliance with the contract requirements and completion of the work by the abatement contractor. During construction, perform the following tasks:

- Attend all necessary construction meetings during the course of abatement work
- Review abatement contractor submittals
- Provide on-site inspections with daily reports and photos of abatement work
- Maintain on-site records and perform monitoring during all abatement work
- Monitor abatement contractor's compliance with the plans, specifications and any regulations including but not limited to certification of abatement workers, ensuring proper containments, and confirmation of the removal of all asbestos, lead and hazardous materials.
- Assist the District with problem resolutions associated with abatement work
- Keep District informed of abatement contractor's performance

2.3.6 Closeout Phase

Verify the Uniform Hazardous Waste Manifest, when required, has been submitted and reviewed by OEHS for completeness a minimum of 48-hours prior to the date the waste is to be removed from the site. Consultant shall provide waste specific information for inclusion on the manifest. No hazardous waste may be transported away from a District site without a manifest. Submit all original paperwork required to be maintained by the contract documents, this agreement, and by law to the District.

Upon completion of the abatement work, prepare a Closeout Abatement Report that documents all the activities performed, including copies of all sampling forms with results, daily reports, progress photos, correspondence and any regulatory compliance forms.

2.4 SCOPE OF BASIC SERVICES

2.4.1 The scope of basic services required by this RFQ may include, but is not limited to, the following:

- A. Consultant shall provide all necessary expertise and services to professionally and diligently execute the work authorized by the Agreement to be issued by OUSD after successful contract negotiations, subsequent to the RFP process.

Consultant shall:

1. Contract for or employ at Consultant's expense, Sub-Consultants or personnel to the extent deemed necessary for the work. OUSD reserves the right to reject the use of any Sub-Consultant.
2. Consult, as necessary, with normal and customary employees, agencies, and/or representatives of OUSD regarding the work outlined in the Agreement.
3. Attend meetings with OUSD, other professionals employed by OUSD and local and regional agencies, as needed, and directed by OUSD to perform the work.
4. Cooperate, as necessary, with other professionals employed by OUSD for other

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work related to an Agreement.

5. Abide by all regulations imposed by funding sources, such as auditing requirements and payroll affidavits.

6. Be responsible for the professional quality, technical accuracy and the coordination of Consultant's entire work product and provide a professional level of review of all deliverables to assure quality and technical accuracy of all documents furnished by Consultant under this Agreement. Consultant shall, without additional compensation, correct or revise any errors in its documents and other services.

- B. Provision of the Work: Work shall be provided in accordance with the Agreement resulting from this RFQ and shall be subject to the provisions of the Agreement between Firm and District, including any additional provisions specified with regard to schedule, key personnel, and Sub-Consultants.

(END OF SECTION)

SECTION 3 - RESPONDING TO THIS RFQ

3.1 MINIMUM REQUIREMENTS

3.1.1 Statement of Qualifications. Consultant's Statement of Qualifications (SOQ) shall clearly and accurately demonstrate specialized knowledge and experience required for consideration. The SOQ shall not exceed 10 pages in length. 5 (five) hardcopies, and 1 (one) electronic copy are to be submitted. Table of contents, covers, and dividers may be used without counting against the 10-page limit.

3.1.2 A complete SOQ shall provide the following documents:

A. Cover letter (Letter of Interest) signed by an authorized representative of Consultant and which includes Consultant's:

- Legal name
- Address (mailing & street, if different)
- Telephone number
- Fax number
- Federal tax identification number
- Name, title, and email address of Consultant's contact person for this RFQ.
- Addenda Acknowledgement (if needed)

B. A written statement of Consultant's qualifications that is responsive to the selection criteria described in 3.3 Selection Criteria. Consultant shall include examples of successful projects within budget. Resumes of key personnel may be attached as an appendix and do not count toward the page limit.

C. Schedule of Rates. Provide a schedule of rates for services, including additional services, for the principal firm (or firms if there is a joint venture or association) and Sub-Consultants. The schedule of rates shall consist of a list of project staff by title with hourly billing rates. It shall also indicate: (a) whether support services are billed as direct costs or are included in overhead; and (b) if handling charges or profit are added to other direct costs (e.g., sub-Consultants' costs, reimbursable(s)). The hourly rates shall be subject to a yearly escalation based on Consumer Price Index. **One copy of the schedule of rates should be submitted in a separate sealed envelopment with the SOQ. The schedule of rates is not included in the page count.**

THIS IS NOT A FEE PROPOSAL.

D. A written explanation of what controls the firm would use to conform to a project budget and schedule.

E. A written statement of the firm's approach to similar work for other Districts.

F. Address firm's ability to provide staff and resources to selected projects within typical time constraints of public works projects. Provide an example of at least one recent successful similar project that the firm's team members have worked on.

G. Has your firm ever been terminated or replaced by another firm during a project? If so, explain in detail and provide results of any litigation/claims on the project.

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H. Has your firm been party to a lawsuit? If yes, please explain.

3.2 CONSULTANT COSTS

3.2.1 Costs incurred for developing the SOQ and in anticipation of award of the agreement are entirely the responsibility of Consultant and shall not be charged to OUSD and/or the State of California. All submittals become the property of OUSD upon receipt and will not be returned to Consultant.

3.3 SELECTION CRITERIA

3.3.1. Firms shall respond in writing indicating how they believe their experience fulfills the requirements of these criteria. The selection committee will be appointed by OUSD. The selection criteria to be used by OUSD's committee members for determining the best-qualified firm to provide professional services for the Project will include:

Selection Criteria
Professional experience of the firm in performing services of a similar nature and scope. OUSD expects that the submitting firm have in-house professional expertise to perform the work
Staffing capability and the ability to meet schedules
Reliability, continuity, and location of firm in proximity to OUSD
Quality and relevance of recently completed or ongoing work
Education and experience of key personnel to be assigned
Knowledge of applicable standards, regulations, codes and technology
Demonstrate Firm's understanding of this District's needs for this particular project and identify potential challenges and Firm's approach to mitigate those challenges.

3.4 EVALUATION AND SELECTION PROCESS

3.4.1 The OUSD Screening and Selection Committee Members will review, evaluate and score each SOQ based on the above criteria.

3.4.2 At any time, OUSD may contact a Consultant's previous clients and/or project owners to verify the experience and performance of the prospective Consultant, its key personnel, and its Sub-Consultants.

(END OF SECTION)

SECTION 4 - ADMINISTRATIVE PROCESS AND REQUIREMENTS

4.1 AGREEMENT FOR SERVICES

- 4.1.1 The selected firm (Consultant) will be notified in writing of selection and approved by the Board of Education to enter into the Pool.
- 4.1.2 OUSD will issue to the Firms in the approved Pool a Request for Proposals (RFP) for individual projects, as needed. Following the RFP process, the District will attempt to enter into negotiations with the selected Consultant for a satisfactory Agreement and reasonable fee for the services needed.
- 4.1.3 If a satisfactory contractual agreement on services and compensation cannot be reached between OUSD and the selected Consultant, OUSD reserves the right to terminate negotiations with the selected Consultant and attempt to reach satisfactory contractual Agreement with the remaining qualified Consultants.
- 4.1.4 The selected Consultant with which OUSD successfully negotiated, shall be required to execute an "Agreement". The Standard Agreement shall include the agreement terms and conditions of each RFP. Consultant shall execute the required number of copies of the Agreement documents and return them within seven (7) calendar days, after Consultant has received Agreement documents for signature.

OUSD reserves the right to modify or update the Standard Agreement in the interest of OUSD, in whole or in part, at any time up to the issuance of the Agreement by OUSD. By submitting for this RFQ, the prospective Consultant and its key Sub-Consultants acknowledge that a) the project team will provide the services required in the Agreement, and b) the project team has no objection to the Standard Agreement. A sample standard professional services agreement is included in this RFQ as Exhibit A.

4.2 INSURANCE REQUIREMENTS

- 4.2.1 Provide information on the types and amounts of insurance carried including Commercial General Liability, Automobile Liability, Workers Compensation, and Professional Liability Coverage. The carrier must have Best Key Rating Guide of "A" or better as a California admitted insurer.

All such insurance shall be on an occurrence basis and should name the District as additional insured. Policies shall have a non-renewal or cancellation clause of not less than thirty (30) days. Minimum limits of insurance required by the District for consultant and sub-consultants are indicated in Article XII, Section B of the Master Agreement for Architectural Services, and as follows:

- i. General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit;
- ii. Automobile Liability: \$2,000,000 per accident for bodily injury and property damage;

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- iii. Workers' Compensation and Employer's Liability: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease; and
- iv. Professional Liability: Not less than \$2,000,000 per claim

(END OF SECTION)

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Professional Services Agreement

(Equal to or Less than Annual Adjusted Amount)

This agreement ("Agreement" or "Contract") is made and entered into this _____, 20_____, between the **OCEANSIDE UNIFIED SCHOOL DISTRICT**, a California public school district, hereinafter referred to as the "**District**" and _____, hereinafter referred to as the "**Consultant**" or "**Contractor**."

California Government Code section 53060 authorizes a school district to contract with and employ persons for the furnishing to the District of special services and advice in financial, economic, accounting, engineering, legal, operative or administrative matters if such persons are specifically trained and experienced and competent to perform the special services required. The service provided under this contract are for _____.

California Public Contract Code section 20111 authorizes a school district to execute contracts that involve an expenditure not to exceed the annual adjusted amount, without competitive bidding, for services, except construction services.

Consultant agrees to provide the District the services enumerated in Section 6 of this Agreement under the following terms and conditions:

1. Services shall begin on _____, 20_____ and shall terminate upon _____, 20_____, unless earlier terminated as provided for herein. The parties may agree to extend the term of this Agreement for an additional three (3) years, one (1) year at a time, upon mutual written agreement of both parties before the expiration date of the contract. Neither the Contractor nor the District is required to renew this contract in subsequent contract years. Board of Education may need to approve the renewal of contract.
2. Consultant understands and agrees that he and/or all of his employees are Independent Consultants and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions including Unemployment Insurance, Social Security and Income Taxes with respect to Consultant's employees. The parties agree that: (1) Consultant shall be responsible for the control and direction of its own employees and personnel in the performance of the services under this Agreement; (2) the Consultant's personnel shall only perform work that is outside the usual course of the District's business; and (3) Consultant's personnel shall be engaged in business independent of the District. Consultant shall defend and indemnify the District against any claim by any worker that it is actually an employee of the District.
3. Consultant shall furnish, at his own expense, all labor, materials, equipment and other items necessary to carry out the terms of this Agreement.
4. To the fullest extent permitted by law, Consultant agrees to defend, indemnify and hold harmless the District, its Governing Board, employees and agents from any and all liability or loss arising in any way out of Consultant's performance of this Agreement, including, but not limited to any claim due to injury and/or damage sustained by Consultant, and/or the Consultant's employees or agents.
5. Consultant shall carry and provide OUSD with a Certificate of Insurance with comprehensive general liability insurance policy with limits of one million Dollars (\$1,000,000.00) per occurrence and two million dollars aggregate (\$2,000,000.00) for to cover bodily injury, property damage and general liability which may arise out of this Agreement in a form mutually acceptable to both parties to protect consultant and District against liability or claims of liability to be in effect during the terms of the contract.

When in contact with students, consultant shall also provide liability insurance coverage specially for the perils of molestation, sexual misconduct, or allegations of sexual abuse with minimum policy limits of one million dollars (\$1,000,000.00).

6. Services to be rendered to the District by the Consultant are as follows:

By Completing the service as per the final proposal and/or scope of work as defined within Exhibit "A" attached.

Site account number to be charged: _____

Unit Cost of Services:	\$ _____
Monthly Cost of Service	\$ _____
Annual Not to Exceed Cost of Services: AMOUNT	\$ _____

The standard of care for the performance of such services shall be the standard of care generally accepted in Consultant's industry. Consultant warrants that Consultant, and all of its employees and subconsultants, if any, are qualified to perform the services and hold any licenses, permits, approvals, and/or qualifications so required.

FOR INSPECTION SERVICES ONLY: Consultant shall keep a file of DSA approved Construction Contract Documents and DSA approved modifications thereto on the site at all times including all reports of testing and inspection required by the Construction Contract documents. The Consultant shall have and maintain at the site at all times all codes and regulations applicable to the project and as necessary to perform project inspection services under this Agreement. The Consultant shall organize and maintain a complete system of records relating to construction of the Project including but not limited to: (i) daily job log; (ii) progress reports; (iii) correspondence file; (iv) change order file; (v) shop drawings and submittals file(s); (vi) test and inspection file; (vii) site conference file; (viii) notice of non-conforming condition file; and (ix) job memo file.

7. Neither party shall assign or delegate any part of this Agreement without the written consent of the other party.
8. The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof. Consultant agrees to comply with all Federal, State, Municipal and District laws, rules and regulations, including but not limited to guidelines related to COVID-19, that are now, or may in the future become applicable to Consultant, Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.
9. Payments will be made by the District to the Consultant for services satisfactorily performed as follows:

Invoicing shall be submitted monthly for services performed in the previous 30 day billing period. Invoices submitted shall be accompanied by a detailed time summary for the amount being submitted for payment. Where a percent complete is called out on the invoice, a detailed summary for the equivalent shall also accompany the invoice. To the extent that District has approved any expenses as reimbursable, such expenses shall be listed on the invoice and supported by proper documentation. Undisputed amounts of such invoices shall be paid within 30 days of

presentation and approval of the monthly invoice for these services on the as defined within the scope of work. Failure to bill in a timely manner could result in rejection of your invoice at the District's discretion.

10. Upon a breach of this Agreement by either party, the non-breaching party may terminate the contract by notifying the breaching party, in writing, no less than 3 days prior to the date of termination. The District may also terminate this Agreement for convenience upon 30 days written notice to the Consultant.
11. District shall become the owner of and entitled to exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind produced as part of or resulting from this Agreement and no other uses thereof will be permitted except by permission of the District. District shall have all right, title, and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. District may use Consultant's name in conjunction with the sale, use, performance, and distribution of the matters for any purpose and in any medium.
12. It is the policy of the District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and District policy. In addition, the Consultant agrees to require like compliance by all its subcontractor(s).
13. Fingerprinting of Employees. The Consultant shall comply with the requirements of California Education Code section 45125.1, and perform the following acts:
 - (a) Require all current and subsequent employees of Contractor who may enter a school site during the time that pupils are present to submit their fingerprints in a manner authorized by the California Department of Justice (the "CADOJ").
 - (b) Prohibit employees of Contractor from coming into contact with pupils until the CADOJ has ascertained that the employee has not been convicted of a felony as defined in California Education Code section 45122.1.
 - (c) Certify in writing, using the District's fingerprinting certification form (attached hereto), to the District that neither Contractor nor any of Contractor's employees who may enter a school site during the time that pupils are present have been convicted of a felony as defined in California Education Code section 45122.1 and provide such certification to the District.
 - (d) Provide a list of the names of Contractor's employees who may have contact with pupils to the District. This list shall be updated for employee changes and shall list employees by appropriate school site.
 - (e) The District may require the Contractor and its employees who may have contact with pupils to submit to additional background checks at the District's sole and absolute discretion.
14. Audit. Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the term of this Agreement and for three (3) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

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15. No Rights in Third Parties. This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
 16. Waiver. The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
 17. Entire Contract. This Contract supersedes any and all other agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Contract which is not contained herein shall be valid or binding.
 18. Disputes. Any and all disputes that arise out of this Agreement shall first be resolved by good faith negotiations between the parties with the assistance of non-binding mediation. In the event either party determines that they are not able to resolve the dispute through negotiation and mediation, then the dispute shall be submitted to binding arbitration in accordance with the American Arbitration Association. Pending resolution of the dispute, Contractor agrees it will neither rescind the Agreement nor stop the performance of the services.
 19. Severability. In the event that any provision of this Contract is held invalid or unenforceable by a court of competent jurisdiction, no other provision of this Contract will be affected by such holding, and all of the remaining provisions of this Contract will continue in full force and effect, unless to do so would invalidate the intent of the parties in entering into this Contract.
 20. Amendments. The terms of this Agreement shall not be modified, supplemented, or amended in any manner whatsoever except by written agreement signed by both parties.
 21. Governing Law. This Agreement shall be governed by and the rights, duties and obligations of the parties shall be determined and enforced in accordance with the laws of the State of California and venue shall be appropriate in San Diego, California.
 22. Notice. Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, to the addresses set forth herein.
 23. Captions and Interpretations. Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the parties.
 24. Counterparts. This Agreement and all amendments and supplements to it may be executed in counterparts, electronic or otherwise, and all counterparts together shall be construed as one document.
 25. Drug-Free / Smoke-Free Policy. No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on District property. No students, staff, visitors, Contractors, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
 26. Force Majeure. In the event either party is unable to perform its obligations under the terms of this Contract because of acts of God, strikes, pandemics, or other such events reasonably beyond the parties' control, such non-performing party shall not be liable for damages resulting from such failure to perform; provided, however, that such non-performing party must notify the other party of its inability to perform due to a force majeure event and must resume performance as soon as is reasonably practicable thereafter.

27. Contract Contingent on Board Approval. The District shall not be bound by the terms of this Agreement until it has been formally approved by the District's Governing Board, and no payment shall be made or owed to Contractor absent that formal approval. This Agreement is deemed approved when it has been signed by the Governing Board and/or the Superintendent or designee thereof, and each person signing this Contract warrants that they have such authority to sign.

CONTRACTOR

Signature of Authorized Agent

Printed Name

Social Security or Taxpayer I.D. No.

(Area Code) Telephone Number

E-mail Address

DISTRICT USE ONLY

Approval of Site Administrator

Printed Name

Signature

Date

Approval of Program Administrator

Printed Name

Signature

Date

*Approval of Associate Superintendent

Printed Name

Signature

Date

*Approval of Fiscal Services Administrator

Printed Name

Signature

Date

****Approvals of Associate Superintendent & Fiscal Services Administrators are required if the amount of the contract exceeds \$4,999***

EXHIBIT A

[Insert Scope of Services and/or Proposal]