



## Peralta Community College District

### REQUEST FOR PROPOSAL

#### RFP No.: 17-18/37 Collection Agency Services, Multi-Year Contract

The Peralta Community College District (PCCD), Oakland, California, through the Office of Purchasing, is hereby requesting proposals for the above mentioned project.

The successful vendor will be required to furnish all labor, material, equipment, supplies, applicable taxes, insurance, bonding, and licenses to complete this project.

#### Proposal Information

<b>Proposal Description</b>	<b>Collection Agency Services</b>
<b>Proposal Type</b>	<b>Service</b>
<b>Proposal Number</b>	<b>17-18/37</b>
<b>Proposal Issued</b>	<b>June 15, 2018</b>
<b>Department</b>	<b>Purchasing Department</b>
<b>Scheduled Publication Dates</b>	<b>June 15, 2018 and June 22, 2018</b>
<b>Proposal Due Date</b>	<b>July 2nd, 2018 by 3:00 p.m.</b>

#### Instructions for Submitting Proposals

<b>Submittal Address</b>	Peralta Community College District Purchasing Department Attn: John Hiebert 501 5 <sup>th</sup> Avenue Oakland, CA 94606
<b>Submittal Copies</b>	One (1) Original copy clearly marked "Original" and one (1) copy marked "Copy", plus a PDF version on a USB flash drive
<b>Submittal Envelope Requirements</b>	Proposal must be <u>sealed</u> and have the following information <u>clearly marked</u> and visible on the outside of the envelope: <ul style="list-style-type: none"><li>• Proposal Number</li><li>• Name of Your Company</li><li>• Address</li><li>• Phone Number</li></ul>
<b>Late Submittals</b>	Proposals received after the time and date stated above shall be returned unopened to the vendor.

## How to Obtain Proposal Documents

Copies of the Proposal documents may be obtained at:

Available	Location
Yes	Peralta Community College District Purchasing Department 501 5 <sup>th</sup> Avenue Oakland, CA 94606 Monday through Friday 9:00 AM to 4:00 PM (510) 466-7225
Yes	Website: <a href="http://www.peralta.edu">www.peralta.edu</a> Click "Business Opportunities" to download the packet.

## Questions about the Proposal

Questions and or Requests for Information (RFI) must be submitted in writing and can be submitted by fax or email as follows:

<b>Primary Contact</b>	<b>John Hiebert, Buyer (for questions on submittal process)</b> <b>Fax: 510-587-7873</b> <b>Email: <a href="mailto:jhiebert@peralta.edu">jhiebert@peralta.edu</a></b>
<b>Project Manager</b>	<b>Christine Williams (for questions on RFP requirements)</b> <b>Peralta Community College District</b> <b>Office (510) 466-7275 Fax (510)587-7851</b> <b><a href="mailto:cdwilliams@peralta.edu">cdwilliams@peralta.edu</a></b>
<b>Questions/RFI Due Date</b>	<b>June 25, 2018 at 4:00 p.m.</b> Please submit questions as soon as possible. No questions regarding the specifications will be responded to after the above date. All pertinent questions will be responded to and answered in writing no later than the Response Date listed below. All prospective bidders will receive copies of the questions and answers.
<b>Response Date</b>	<b>June 27, 2018</b> All pertinent questions will be responded to <b>via addendum</b> emailed or faxed to all prospective bidders. Copies of the addendum will also be posted on the District website. (See "How to Obtain Proposal Documents" section for our web address.) All addendums must be acknowledged on the RFP Acknowledgement form.

## **Full Opportunity**

The Peralta Community College District hereby affirmatively ensures that Disadvantaged Business Enterprises (DBE), Small Local Business Enterprise (SLBE) and Small Emerging Local Business Enterprise (SELBE) shall be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, disability, gender, transgender status, political affiliation or religion in any consideration leading to the award of contract.

No qualified disabled person shall, on the basis of disability, be excluded from participating in, be denied the benefits of, or otherwise be subjected to discrimination in any consideration leading to the award.

Peralta Community College District reserves the right to reject any or all proposals, to waive any irregularities or informalities not affected by law, to evaluate the proposals submitted and to award the contract according to the proposal which best serves the interests of Peralta Community College District.

Sadiq B. Ikharo, Ph.D., Vice Chancellor  
Peralta Community College District

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### **Attachments:**

Title		Must Be Returned with Proposal
1	Vendor Questionnaire and Certificate by Compliance	Yes
2	Environmentally Sustainable Procurement	Yes
3	Certificate Regarding Workers' Compensation	Yes
4	Statement of Equal Employment Opportunity	Yes
5	Small Local Business Enterprise/Small Emerging Local Business Enterprise Program	
6	SLBE/SELBE Self Certification Affidavit	Yes, If applicable
7	Non-Collision Affidavit	Yes
8	General Provisions	
9	RFP Acknowledgement and Signature Form	Yes
10	Sample contract	

## **I. Project Overview**

Peralta Community College District is seeking proposals from qualified and professional Collection Agencies for an agreement to perform receivables recovery, and resolution services for student and non-student delinquent accounts. Types of receivables shall include, but not be limited to, Federal Perkins Student Loans, academic registration fees/tuition, and miscellaneous student charges (e.g., late fees, library fines, parking, etc.), as well as business, vendor, agency and individual monies owed to the Peralta Community College District. The initial term of the contracted services shall be for a period of three (3) years, during which time the Peralta Community College District may terminate the agreement without cause. During the three (3) year period, agencies shall demonstrate an ability to perform and meet the expectations of the Scope of Work. At the conclusion of the three (3) year period, the District may automatically renew for two (2) additional one-year periods. The District's intent is to enter into a five year contract, subject to satisfactory performance. Interested collection agencies shall submit by written proposal their intent to provide collection, recovery, and resolution services according to the general guidelines outlined below.

## **II. Scope of Services**

The Awarded Vendor shall provide student delinquent accounts receivable management services to the Peralta Community College District.

The program includes collection of monies to satisfy past due accounts receivable from individuals who may be currently enrolled or former students of the Peralta Colleges.

The financial obligations' of the students result from charges for services rendered by one or more the Peralta Community Colleges. The student receivables may include tuition and fees, cancelled financial aid or other items that have resulted in balances owed and student receivables.

Prospective Vendors must include in their proposal details of their student account receivable web based application, supporting reports, system integration method, any and all training, supporting documentation and system generated reports for accounting purposes. Any use of third party vendors or sub-contractors must be disclosed in the RFP response.

1. Batch Performance Report.
  - a. Provide on a monthly basis.
  - b. Display key performance metrics on month-by-month basis for a full 24 month cycle.
  - c. Must include current accounts, paid in full accounts, accounts on payment plans, and accounts assigned to the preferred collection agencies.
2. Active Inventory Report.
  - a. Provide on a monthly basis.
  - b. Include all accounts that have a current balance.
  - c. Must include all current accounts and accounts paid in full in the current month.
3. Collection Agency Report.
  - a. Provide on a monthly basis.
  - b. Include all accounts that are currently assigned to collection agencies.
  - c. Must include breakdown for each collection agency and performance statistics.
4. Confirmation Report.
  - a. Provide on a daily basis.
  - b. Include all new accounts that were accepted.

5. Paid In Full Report.
  - a. Provide on a monthly basis.
  - b. Include all accounts that were paid in full in the current month.
  
6. Payment Plan Report.
  - a. Provide on a monthly basis.
  - b. Include all accounts that are on a payment plan including number of schedule payments, schedule payment amounts, current balance due, last payment received, and next payment due.
  - c. Include indicator if student has missed a scheduled payment and next activity to be completed if payment plan not brought current.

The Peralta Community College District assumes no responsibility for the completeness or the accuracy of any information presented in this RFP, or otherwise distributed or made available during this procurement process, except as expressly stated to the contrary. Without limiting the generality of the foregoing, the Peralta Community College District will not be bound by or be responsible for any explanation or interpretation of the proposed documents other than those prepared in writing. In no event may a Proposer to this RFP rely on any oral statement made by the Peralta Community College District or any of the Peralta Community College District's agents, employees, advisors or consultants.

Should a Bidder find discrepancies in or omissions from, this RFP and related documents, the Bidder shall immediately notify the Peralta Community College District, in writing, and a written addendum, if necessary, will be mailed or delivered to each Bidder. Every Bidder requesting an interpretation of this RFP will be responsible for delivering such requests to the Peralta Community College District in writing at the address and within the time limit set forth.

The Peralta Community College District considers any information which it may have released either orally or in writing prior to the issuance of this RFP to be preliminary in nature and the Peralta Community College District shall not be bound by such information.

## **1. INTRODUCTION**

Located in East Oakland, the Peralta Community College District encompasses more than 300 square miles, including part of the Alameda and all of the City of Oakland. The District is comprised of four colleges. The District provides in-house collection efforts through the colleges' Admissions and Records Department, the colleges' Business Services Department, and the District's Fiscal Services Department. Customer service hours of operation are Monday through Friday, 8:00 a.m. – 5:00 p.m. PST, excluding District holidays. Accounts assigned to collection agencies may or may not have had recovery/resolution attempts made by the in-house collection efforts. The District currently has an estimated \$10 million in delinquent accounts receivables. The selected agency entering into the first three-year agreement period will be assigned a portfolio with an expected recovery rate of 25% or more of the total value.

## **2. PURPOSE**

The purpose of this RFP is to identify a qualified collection agency to recover and resolve outstanding receivables on behalf of the Peralta Community College District. Upon review of the proposals, the District will award the contract on a "best value" basis whereby the lowest responsible bidder will be selected on the basis of objective criteria for evaluating the qualifications of Bidders with the resulting selection representing the best combination of price and qualifications. The collection agency with the most evaluation criteria points will be invited to negotiate for a Contract.  
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## **3. CRITERIA**

Responses to this RFP will be evaluated according to the following criteria and any other criteria identified by the Purchasing and Fiscal Services Departments as deemed in the best interest of the District.

- A. Must meet agreed upon specifications**
- B. Capacity to Perform (30%)**
- C. Pricing (25%)**
- D. Recovery Rate (25%)**
- E. Reference Checks (15%)**
- F. Small Business (5%)**

Provide contact information and gross collection statistics for three (3) references, preferably in the higher education or in the public sectors. Agency shall include references per reference sheet in this Request for Proposal. Preference will be given in the following order: Any California Community College Districts, any Community College, any California College, any College, and any California Public Institution.

### **A. Specifications**

Collection, recovery and resolution services are to be performed in accordance with the Items listed below. Bidders are to make a clear statement as to whether or not their current processes, procedures, and resources comply with these specifications and that they are acceptable as written and no changes are requested. Bidders must identify any section of these specifications in which they are non-compliant and must explain the reasons for non-compliance and/or submit a counter-proposal to the District.

#### **1.00 Agency Collection Service:**

- 1.01 Upon written notification by the District, this agreement may be terminated without cause.
- 1.02 Agency shall promptly undertake, through proper and lawful means, the collection, recovery and resolutions of all accounts referred by the District and utilize diligent collection procedures to achieve a maximum recovery on referred accounts, regardless of the dollar value of the account. Diligent collection, recovery and resolution procedures shall include, but are not limited to, dunning letters, telephone calls, skip tracing activity, etc.
- 1.03 Agency shall utilize predictive dialing campaigns or a similar system of automation to ensure accounts are worked based on the account status.
- 1.04 Agency shall offer multiple electronic payment options including credit cards processing that is compliant with industry security standards.
- 1.05 Agency shall **not** report District's debtors to any credit bureau without the expressed written consent of the District.
- 1.06 Agency shall review each account a minimum of two (2) working days every thirty (30) days, and appropriate follow-up activity shall be taken on the account. Such review and activity shall be documented, and the documentation shall be available for inspection by the District.
- 1.07 Agency shall promptly notify District in the event of a debtor's death.
- 1.08 Agency shall submit copies of all letters and notices to District for approval prior to use.

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- 1.09 Agency shall utilize skip tracing tools to locate delinquent debtors.
- 1.10 Agency shall utilize Residence Address Validation services with the U.S. Postal Service.
- 1.11 Agency shall not negotiate any payment plans on behalf of the District. Debtors must be referred back to the District.
- 1.12 Agency shall suspend collection efforts on any individual or group of accounts upon receiving notification from District, and shall not engage in or resume collection activity on those suspended accounts until authorized by District.

#### **2.00 Recording and Remitting Collections:**

- 2.01 Agency shall deposit all checks collected from the debtors and submit one check made payable to Peralta Community College District for all amounts collected with a report sent to District by the \_\_\_\_\_ of each month referencing: Debtor Name, ID#, and Amount Collected.
- 2.02 The District shall notify Agency of all payments that are received directly by the District on accounts referred to the Agency. Agency shall maintain full documentation of the sources of direct payments, which shall be readily available to District on request.
- 2.03 Agency shall forward to District any amount of overpayment with an explanation that it is an overpayment.

### **3.00. Agency Records:**

3.01 Agency shall maintain records for all accounts referred by District indicating the original balance referred, plus any additional charges which include, but are not limited to, collection charges, or commissions.

3.02 Agency shall maintain a complete file for each referred account for six (6) years after the accounts are returned to the District. The District or its designated agent may examine Agency records at reasonable times. Such records shall meet District's audit standards and shall be acceptable for audit by Federal and State agencies.

3.03 Upon request by District and at Agency's sole expense, Agency shall arrange for an independent audit of its records of accounts by an agency acceptable to District.

3.04 Upon request by District, Agency shall provide District with a copy of its most recent independent audit.

3.05 Agency shall make all adjustments and corrections to accounts within five (5) working days of the notification of such needed action.

3.06 Agency shall reconcile and verify its records each month to records supplied by District or its designated agent, to ensure that the names, account numbers, referred amounts, and balances of each account are correct.

3.07 An exception report listing any discrepancies or corrections made during reconciliation shall be sent to the District no later than ten (10) working days following the receipt of District's records.

### **4.00. Agency Commission and Recovery Expectations:**

4.01 Agency commission shall be \_\_\_\_\_% on all monies collected, applicable to all accounts regardless of the size of accounts, age of accounts, or skip tracing activity required.

4.02 Agency commission shall cover the cost of Agency's collection services and the expenses incurred to effect collection and meet the requirements of this Agreement, which include, but are not limited to, conducting correspondence, meeting reporting requirements, performing collection analyses, and undertaking systems development.

4.03 A commission shall not be paid on amounts received by District through the Chancellor's Office Tax Offset Program (tax intercept). Upon posting of a tax offset payment, Agency shall be asked to reduce offset amount from balance due.

4.04 Agency commission shall not be paid on amounts received directly by the District, such as through the COTOP tax-intercept program or due to students desire to register for a new term, nor account balances which are subsequently adjusted (waived), unless it can be reasonably demonstrated that the payment was the result of Agency's efforts. Agency shall reimburse the District for any commissions deducted on such amounts on the next monthly check, following notification by the District.

4.05 A commission shall not be paid on amounts received by Agency or directly by District on recalled accounts after Agency receives notification to recall accounts.

4.06 A commission shall not be paid on overpayments or amounts collected in excess of the amount referred by District.

4.07 Agency shall deduct commissions due and send a check to District for the balance of the gross collections, as specified within this agreement.

### **5.00. Bankruptcy of Debtor:**

5.01 Agency shall immediately cease all collection activity on accounts in which the debtor has filed a petition for bankruptcy upon receipt of the Notification of First Meeting of Creditors.

5.02 Agency shall contact the District immediately and return the accounts to District upon receiving the Notification of First Meeting of Creditors. The accounts shall be returned without assessment of any commission, fee, or charge. Appropriate notation shall be made on accounts returned due to bankruptcy so that District may readily identify the reason for return of the account.

5.03 Should Agency receive notification that a debtor has filed for bankruptcy from anyone other than District; Agency shall immediately notify the District and forward copies of all relevant documents to District, including a copy of the Notification of First Meeting of Creditors.

### **6.00. Agency Training and Dissemination of Information:**

6.01 Agency shall perform and record regularly scheduled call monitoring.

6.02 Agency shall, upon the request of the District make the recorded calls available for review.

6.03 Each collector shall be thoroughly instructed prior to handling District accounts of the necessary procedures to be followed.

6.04 Collectors handling District accounts shall demonstrate their knowledge of specific requirements of District procedures in a manner acceptable to District.



6.05 Agency shall allow District, if requested, or a designated agent, to conduct a personal interview of each collector handling District accounts. Such interviews shall not require advance notice from District, but shall be for a reasonable period of time during the collectors' normal working hours and at their normal place of business. Such interviews shall be limited to once each six months for each collector, unless complaints have been received by District concerning conduct of specific collectors, in which case additional interviews or meetings may be required by District until such problems are resolved.

#### **7.00 Reports**

Agency shall provide the following reports, in a manner that is acceptable to District with respect to format, reporting period, frequency, number of reports provided and distribution method.

7.01 All reports and check shall be submitted to District at the time *specified in section 2.01. Please provide a sample report.*

7.02 All dollar amounts on reports shall be in United States dollars, with any foreign currency or instruments being converted prior to being applied to the debtor's account. Agency shall document in their agency account records when foreign currency or instruments are received, listing the debtor's name, their ID#, the amount and national origin of currency or instrument, and the amount of United States dollars which resulted after the exchange took place and which was applied to the debtor's account. These records will be available to District for review.

7.03 All reports shall be listed alphabetically by debtor's last name.

7.04 All reports shall include at least the debtor's name and their ID#.

7.05 Social Security numbers are to be kept confidential and should not be referenced in any mailings.

#### **8.00 Assignment, Referral, Return and Recall of Accounts:**

8.01 Agency shall accept as assignments all delinquent accounts the District chooses to assign to Agency. Such assignments shall be in conformance with the California Civil Code and the Business and Professions Code, subject to applicable Federal law and regulations that prohibit the passage of all rights, title, and interest to Agency and subject to the terms and conditions set forth in this Agreement.

8.02 Agency shall have the functionality for secured on-line placements.

8.03 District may refer either the past-due portion of debtor accounts or the total amount outstanding as it so chooses.

8.04 Agency must return individual accounts to District as uncollectible when all reasonable attempts to collect or locate the debtor have been exhausted.

8.05 District shall have the right to recall any individual and/or group of accounts from Agency, without charge or penalty.

#### **9.00 Compliance with State and Federal Laws:**

9.01 Agency shall comply with all applicable laws and regulations of the United States, the State of California, the state of the debtor's residence, the Family Education Rights, which include, but are not limited to, laws and regulations regarding debt collection practices and disclosure of personal and confidential Gramm-Leach-Bliley Act which include, but are not limited to, laws and regulations regarding debt collection practices and disclosure of personal and confidential information. This includes the compliance with all applicable provisions under the Safeguard Rule extension of the Gramm-Leach-Bliley Act which include, but are not limited to, laws and personal and confidential information. This includes compliance with all applicable provisions under the Safeguards Rule extension of the Gramm-Leach-Bliley that requires Agency to develop, implement and maintain a comprehensive information security program that contains reasonable administrative, technical, and physical safeguards of the information that is available to it. Agency agrees to provide a written copy of its Safeguard Plan to the District.

9.02 Agency shall not, under any circumstances, use intimidation, harassment, threats, or any collection technique which, in District's judgment, is unlawful, unethical, or not in the best interest of the District.

9.03 Agency shall not discriminate against any employee or applicant for employment or in any of its activities because of race, color, national origin, religion, sex, age, or physical disability. Agency shall comply with all applicable federal and state laws and regulations relating to nondiscrimination, and District policy.

9.04 Agency, pursuant to U.S. Department of Education Federal Regulations Title 34, Part 668.25 (Perkins), agrees to comply with all applicable statutory provisions as amended.

9.05 In performing its obligations under this Agreement, Agency agrees to comply with all statutory provisions of or applicable to the Higher Education Act and all regulatory provisions prescribed, which specifically affect the responsibilities that Agency is performing for the District and all special arrangements, agreements, limitations, suspensions, and terminations entered into by Agency relating

to such responsibilities. Any provision required to be included in a Contract of this type by any applicable and valid federal, state, or local law, ordinance, rule or regulation shall be deemed to be incorporated herein.

**10.00 Miscellaneous Terms:**

10.01 Agency shall reimburse District for any amount rendered reasonably uncollectible due to Agency acts or omissions. Agency acts or omissions include, but are not limited to: accepting a compromise settlement without written authorization from the District regardless of whether an action, proceeding, or arbitration is pending, acknowledging that payment constitutes payment-in-full of an account without verification from District, failing to contact debtor within the acceptable limitation period, and failing to adjust account balances for accrued interest.

10.02 Agency shall be responsible for any loss of funds collected on referred District accounts while such funds are in the custody of Agency. Agency shall maintain, for the period of the Agreement, and for as long as Agency is engaged in collection activities on District accounts an insurance policy or policies of comprehensive dishonesty, disappearance, and destruction coverage, of a minimum of One Million, Five Hundred Thousand Dollars (\$1,500,000.00), with a maximum deductible of not more than Ten Thousand Dollars (\$10,000.00), insuring against loss of funds collected on referred accounts as a result of any of the following causes:

- a. The dishonesty of officers, directors, employees or agents of Agency.
- b. The disappearance of such funds inside or outside the premises of Agency.
- c. Destruction by Agency of monies, checks or other forms of negotiable instruments.

Such policy shall be in a form and issued by a carrier, which is satisfactory to District, shall require at least thirty (30) days advanced written notice to District prior to cancellation and shall meet at all times the United States Department of Education regulations or guidelines currently in effect, should those limits be greater than that listed above.

10.03 In the event of debtor bankruptcy, Agency agrees to indemnify District against claims or damages resulting from Agency inadvertent collection activity during the automatic stay period of bankruptcy.

10.04 Agency shall indemnify District, defend and hold District, its Board of Trustees, officers, agents, and employees harmless from any and all claims, damages, losses, causes of action, demands including reasonable attorney's fees and costs incurred in connection with or in any manner arising out of Agency's performance of the work contemplated by this Agreement.

Acceptance of this agreement constitutes that Agency is not covered under District's general liability insurance and that Agency agrees, during the term of this agreement, to maintain, at the Contractor's sole expense, all necessary insurance for its officers, agents, and employees, including but not limited to worker's compensation, liability, disability, and unemployment insurance. Certificates of insurance shall be provided to District on request, naming District as additional insured.

10.05 This Agreement shall be the entire agreement between District and Agency.

10.06 Agency shall not assign its rights or delegate its duties provided within this Agreement without prior written consent of District. 10.07 Agency shall notify District within five (5) working days of any change in ownership of Agency, and District will thereupon have the right to review the terms of acquisition and their effect on the terms of this Agreement, and/or to terminate this Agreement.

10.08 It is mutually understood and agreed that no modification of the terms of this Agreement shall be valid unless made in writing and executed by both District and Agency.

10.09 The terms and conditions of this Agreement shall remain in full force and effect if a part of this Agreement is held unenforceable in an action, proceeding or arbitration.

10.10 Any delay or failure of either party in exercising any right provided within this Agreement, or the partial or single exercise of any right shall not be deemed to constitute a waiver of such right.

10.11 This Agreement shall be construed and enforced in accordance with the laws of the State of California. Agency agrees to resort solely to the courts of the State of California for any relief from District under this Agreement.

10.12 Upon termination of this Agreement, accounts assigned to Agency for which Agency has not initiated collection procedure, or for which evidence cannot be presented that collection is imminent, shall be returned to District immediately upon the notification of termination without assessment of any commission, fee or charge.

10.13 Upon expiration of this Agreement, all appropriate terms and conditions of this Agreement shall remain in full force for all accounts assigned to Agency, for which collection procedures have been initiated at the time of expiration and which District chooses to leave with Agency. Agency shall diligently and vigorously take all necessary and appropriate lawful steps for collections.

10.14 Agency shall assume all costs related to installations required to facilitate the execution of services covered by this Agreement.

## **B. Capacity to Perform - (30%)**

Agencies must be able to demonstrate a significant level of experience and resources in the collections, recovery, and resolution of delinquent accounts receivables. In order for the District to assess the Agency's capacity to perform, please respond to the following:

### **1.00 Relevant Experience:**

1.01 Provide relevant information regarding the agency's experience in the collection, recovery, and resolution of delinquent accounts in educational and/or public sector receivables. Include pertinent statistics to substantiate performance.

1.02 Provide relevant information regarding the Agency's experience in the collection, recovery, and resolution of delinquent Federal Perkins Loans, academic registration fees/tuition, and miscellaneous student charges (e.g., late fees, library fines, parking, etc.). Include pertinent statistics to substantiate performance.

1.03 Provide information regarding the knowledge and experience of Agency collectors who would be assigned to the District's accounts. Include the average length of employment of collectors employed by the Agency.

### **2.00 Availability:**

2.01 During what days and hours may debtors contact the Agency?

2.02 During what days and hours may staff from the District contact the Agency?

2.03 Does the Agency provide debtors with a toll-free number?

2.04 If debtors reach a voicemail, what is the average time until their call is returned?

2.05 Does the Agency provide email access for debtors?

2.06 Does the Agency provide email access for District staff?

2.07 What is the average time for the Agency to respond to email inquiries?

2.07 During what hours does the Agency make out-going collection calls?

2.08 Is the Agency able to assign a dedicated relationship support contact for District staff to address escalated matters, performance concerns, etc.? If yes, what position would the contact hold within the Agency's organization?

### **3.00 Industry Knowledge:**

3.01 Is the Agency a member of CAC (California Association of Collectors)?

3.02 Is the Agency a member of ACA International (Association of Credit and Collection Professionals)?

3.03 Is the Agency a member of COHEAO (Coalition of Higher Education Assistance Organizations)?

3.04 Provide additional agency / collector memberships, accreditations or affiliations.

### **4.00 Quality Assurance and Quality Control:**

4.01 Describe how collection staff performance is monitored and evaluated.

4.02 Describe how the Agency processes Credit Cards.

4.03 Describe how the Agency's Credit Card processing is compliant to PCI security standards.

### **5.00 Agency Profile:**

5.01 Provide an overall description of the Agency: its history, ownership, etc.

5.02 Submit an audited annual report or audited financial statement for the past two (2) years for which such reports or statements are available.

5.03 To what extent does the Agency have a multi-state, national, and international presence in the higher education receivables recovery industry?

5.04 Provide information regarding any previous or current relationships with any California Community College. Include contact information and performance statistics.

5.05 Describe what skip tracing tools and resources are utilized to locate delinquent debtors.

### **6.00 Systems and Reporting Capabilities:**

6.01 Describe systems or online tools provided by the Agency to District staff in order to facilitate assignment, customer service, reporting, etc.

6.02 Describe the software utilized by the Agency to conduct collection, recovery, and resolution efforts.

6.03 If the Agency utilizes an integrated dialing system, please explain how it is used.

6.04 Submit samples of all reports to be used by District staff to track and measure Agency performance and to maintain debtor records. Provide frequency of report (daily, weekly, monthly, etc.) and distribution method (paper, online, etc.).

## **C. Pricing - (25%)**

Agency shall submit a proposal for commission rates.

**D. Recovery Rate - (25%)**

Agency shall include the recovery rate in its proposal.

**E. References - (15%) - See Attached Form.**

**F. Small Business Classification - (5%) - See Attached Business Enterprise Certification Form.**

**III. Submission Requirements**

Please respond to the following 8 submission requirements in a straightforward, concise delineation of your capabilities proposed to satisfy the requirement of the RFP. PCCD will use your responses to objectively determine your capabilities and experience. Please label your responses 1 through 8, in the order presented below. Please limit your total response to 20 pages (excludes the required attachment forms provided with this RFP and the sample reports requested in Item #4 of this section). All submitted material must only be bound with one staple in the upper left corner. Please do not use binders or any other type of spiral binding. Submittals must fit into an 8 ½" X 11" folder.

**1. Company Information:** Provide the name of your company (including the name of any parent company), business address, email address, Federal Tax ID number, telephone and FAX numbers, and names and titles of key personnel and a brief history of your company. Provide a brief statement of who is authorized to submit the proposal on the behalf of your firm. Please make sure that person signs and dates the statement.

**2. Knowledge and Experience:** Prepare a list of at least three (3) community college districts or California school districts where your company performed general financial audits and give the names, e-mail addresses and telephone numbers of those clients. Please also prepare a list of California school or community college district clients for whom your firm has performed bond funds audits, specifically in accordance with Proposition 39 requirements. Also, discuss your local, state, and national reputation for quality work performed in the public sector.

**3. Clients:** Provide names, addresses and contact information of three (3) current clients.

**4. Proposed Costs:** Provide your cost for the Performance of the audits on RFP Worksheet and attach any proposed fee schedules. It is important that you provide your fee schedule so that PCCD can evaluate your proposal.

**5. Required Forms:**

The Vendor must fill out all forms included in the RFP (listed in the attachments section) and return them with your proposals. Failure of the vendor to provide any information requested in the RFP, may result in rejection for non-responsiveness. (These required forms will not count against the 20 page maximum for your response.)

**IV. Evaluation Criteria**

Prior to contract award, the Peralta Community College District must be assured that the responder (vendor) selected has all of the resources required to successfully perform under the contract. This includes, but is not limited to, personnel with skills required, equipment/materials and financial resources sufficient to provide services called for under this contract. If during the evaluation process, the Peralta Community College District is unable to assure itself of the responder's ability to perform under the contract, if awarded, the Peralta Community College District has the option of requesting from the responder, any information that the Peralta Community College District deems necessary to determine the responder's capabilities. If such information is required, the responder will be notified and will be permitted five (5) working days to submit the requested information.

In awarding the contract, the district will evaluate a number of factors in combination. Please make sure you have submitted responses to all items listed in the Submission Requirements section, as your responses will be evaluated based on the weights (Points) listed below.

**A. Evaluation Criteria**

Item	Criteria	Points
1	<u>References, Company Background and Key Personnel</u> Vendor's capacity to provide professional service as evidenced by past performance, resources, and from list of key personnel.	15
2	<u>Recovery Rate</u>	25
3	<u>Capacity to Perform</u>	30
4	<u>Proposed Costs</u> As provided on the PCCD RFP Worksheet (Item #6 of Submission Requirements section)	25
5	<u>SLBE</u> Does your company meet the District's definition of an SLBE or SELBE?	5
	Total	100

**B. Selection Procedure**

A technical screening committee comprised of PCCD internal members will initially evaluate and score all submissions according to the scoring criteria above.

**V. Additional Requirements:**

**Cost of Participating in Selection Process**

Cost for developing responses to this RFP, and participating in selection meetings are entirely the responsibility of the firm submitting the proposal. The District will not be paying for any cost incurred by the proposing firm.

**Law Compliance**

The Vendor must comply with all laws, ordinances, regulations and codes of the Federal, state, and local governments which may in any way affect the preparation of proposals or the performance of the contract.

**Proposal Considerations**

PCCD has absolute discretion with regard to acceptance and rejection of proposals. In order to be considered the party submitting a proposal waives the right to bring legal proceedings challenging the Board's choice of the award.

**False Statements**

False statements in a proposal will disqualify the proposal.

**Legal Proceeding Waiver**

The Vendor relationship to PCCD shall be that of independent contractor and not deemed to be agent of PCCD.

**Taxes**

The Vendor will be responsible for all Federal, State and Local taxes.

**Grade of Service**

The Vendor must provide professional service and maintain appropriate personnel to provide expedient and courteous service.

### **Public Records**

Except for materials deemed Trade Secrets (as defined in California Civil Code 3426.1) and materials specifically marked "Confidential" or "Proprietary", all material submitted in response to this RFP are deemed property of the District and public records upon submission to the District. The foregoing notwithstanding, the District may reject for non-responsiveness the RFP Response of a Respondent who indiscriminately notes that its RFP Response or portions thereof are "Trade Secret" "Confidential" or "Proprietary" and exempt from disclosure as a public record. The District is not liable or responsible for the disclosure of RFP Responses, or portion thereof, deemed to be public records, including those exempt from disclosure if disclosure is by law, by an order Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its agents or representatives. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a RFP Response deemed exempt from disclosure hereunder, by submitting a response to the RFP, each Respondent agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising there from. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested material until otherwise ordered by a court of competent jurisdiction.

### **The Vendor's Liability**

The Contractor shall be responsible for any and all damages to the PCCD premises resulting from the negligent acts or willful misconduct of the Contractor agents or employees.

### **Contract Termination**

PCCD may terminate the agreement with the Vendor on thirty days notice for the failure of the Vendor to comply with any term(s) of the agreement between PCCD and the Vendor.

### **Award Consideration**

Award of contract will be based on the information submitted as a result of this RFP. This Bid will be awarded in the best interest of the District. Following the selection of the apparent successful Contractor, the District will enter into negotiations regarding provisions of the Agreement. Insurance Indemnity requirements must be met. The District's Independent Contractor Agreement will be fully executed as the Contract. If a satisfactory Contract cannot be negotiated, the District may, in its sole discretion, begin Contract negotiations with another Contractor and terminate negotiations with the originally selected Contractor. Because the District may award without conducting negotiations, the Bid submitted shall contain the Bidder's most favorable terms and conditions. If the Contract is awarded, it will be to the most responsive and responsible Contractor whose Bid is deemed by the District and constitutes the "best value" to be the best Bid Proposal and whose Bid Proposal best meets the needs of the District. Written notification will be made to unsuccessful Contractors. In the performance of the terms of any agreement resulting from this Bid, Contractor agrees that he/she will not engage in, nor permit, such Subcontractors, where applicable, as he/she may employ, from engaging in discrimination in employment or persons because of race, color, religion, national origin or ancestry, age, sex, familial status, sexual orientation or disability of such persons. (See attached Certificate of Non-Discrimination Form).

### **Amendments**

The Peralta Community College District may, at its sole discretion, issue amendments to this RFP at any time before the time set for receipt of proposals. The vendor's are required to acknowledge receipt of any amendments (addenda) issued to this RFP by returning a signed acknowledgement of each amendment issued. Signed copies must be received on or before the time set for receipt of offers. The Peralta Community College District shall not be bound by any representations, whether oral or written, made at a pre-proposal, pre-contract, or site meeting, unless such representations are incorporated in writing as an amendment to the RFP or as part of the final contract. All questions or

request for clarification concerning material terms of the contract should be submitted in writing for consideration as an amendment.

**Withdrawal or Modification of Offers**

The Vendor may modify or withdraw an offer in writing at any time before the deadline for submission of an offer.

**Acceptance**

Any offer received shall be considered an offer which may be accepted or rejected, in whole or in part, by the District based on initial submission without discussions or negotiations.

The District reserves the right to reject any or all offers and to waive informalities, minor irregularities, or other requirements in offers received, and/or to accept any portion of the offer if deemed in the best interest of the District. Failure of the vendor to provide in its offer any information requested in the RFP, may result in rejection for non-responsiveness. Failure of the vendor to meet or exceed any stated minimums in the RFP may also result in rejection for reasons of non-responsiveness.

**Award and Length of Contract**

The Board of Trustees shall not be bound to accept the lowest-quote fee. The Board will award a three-year contract. PCCD will have the option to issue two (2) one-year extensions not to exceed a total period of 5 years (at the costs quoted in this proposal).

**Representations**

No representations or guarantees of any kind, either made orally, or expressed or implied, are made with regard to the matters contained in this document, including any attachments, letters of transmittal, or any other related documents. The Vendor's must rely solely on its own independent assessment as the basis for the submission of any offer made.



**Peralta Community College District**

**VENDOR'S QUESTIONNAIRE AND CERTIFICATE BY COMPLIANCE**

The following information is requested for information purposes only. It will not be used in determining bid award.

Date \_\_\_\_\_

Firm Name \_\_\_\_\_

Telephone \_\_\_\_\_

Business Fax \_\_\_\_\_

Email Address \_\_\_\_\_

Website \_\_\_\_\_

Street Address \_\_\_\_\_

City/State \_\_\_\_\_

Zip Code+ 4® \_\_\_\_\_

Mailing Address \_\_\_\_\_

City/State \_\_\_\_\_

Zip Code + 4® \_\_\_\_\_

Type of Organization (Check one) Individual  Partnership  Corporation

Name of Owner(s) \_\_\_\_\_

State of Incorporation (if applicable) \_\_\_\_\_

Name of Partners \_\_\_\_\_

(I) Indicate (G) General (L) Limited \_\_\_\_\_

Local Address \_\_\_\_\_

Amount of Annual Business \_\_\_\_\_

The District is identifying vendor ownership as follows:

	Asian-American (Chinese, Japanese, Korean, Vietnamese)	Black or African- American	Hawaiian	Latino (other than Mexican or Mexican- American)	Mexican or Mexican- American	Native – American	Pacific Islander, other Asian	White	Disabled	Veteran	Women	Subcontractor	Employee	Apprentice
<b>Total #</b>														
<b>% of assets</b>														

The District is identifying vendor workforce as follows:

	Asian- American (Chinese, Japanese, Korean, Vietnamese)	Black or African- American	Filipino	Latino (other than Mexican or Mexican- American)	Mexican or Mexican- American	Native – American	Pacific Islander, other Asian	White	Disabled	Veteran	Women	Subcontractor	Employee	Apprentice
<b>Total #</b>														
<b>% of assets</b>														



**Explain whether current workforce is racially and ethnically proportionate to the area from which the workforce is drawn (national, state, or local). Use separate sheet if necessary.**

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**Detail steps taken by vendor since inception to assure non-discriminatory recruiting, hiring, and apprenticeship, placement, promotion, demotion, layoff and termination practices. Use separate sheet if necessary.**

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**What are you interested in providing the District? (e.g., construction, consulting, goods or services).**

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<b>Main Headquarters Office(s) Address/Telephone</b>  (List all as applicable)	1.  2.  3.
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**Total # of Employees \_\_\_\_\_**

<b>Local Office(s) Address/Telephone</b>  (List all as applicable)	1. 2.  3.
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**Total # of Employees \_\_\_\_\_**

<b>Name and list residential zip code for each employee, subcontractor, or apprentice for awarded contract</b>  (Please use the Zip+4@) Use separate sheet as necessary	1. 2. 3. 4. 5. 6.
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**Peralta Community College District**

**ENVIRONMENTALLY SUSTAINABLE PROCUREMENT**

It is the policy of the Peralta Community College District (Board Policy 2.40, Environmental Sustainability), to purchase products or services that help to minimize the adverse effects on human health and the environment, when compared to other products and services that serve the same purpose with comparable efficacy. The District recognizes that environmentally responsible purchasing will help create and sustain markets for environmentally sustainable products, and is committed to encouraging the procurement of environmentally sustainable products, such as products with high recycled content, remanufactured products, FSC certified lumber, Energy Star rated equipment, low and no VOC paints, low-toxicity cleaning supplies and Green Seal approved chemicals, locally sourced organic/sustainably grown foods, compostable utensils, non polystyrene food containers, non petroleum-based inks, and will promote contracting with businesses in close proximity, to reduce our carbon footprint and to promote the District's SLBE program.

The District's formal Environmental Sustainability Policy 2.40 is available for download at [www.peralta.edu](http://www.peralta.edu); click on the District Services Center tab and then Purchasing to view the environmentally sustainable purchasing policy.

**Vendor Statement and Signature**

**The long-term goal of the District is to purchase products with zero waste, high recycled content, produced and delivered in an environmentally sustainable manner. Does your product or service promote the District's Environmentally Sustainable Procurement goal?**

Yes\*      No

**\*If Yes, you are required to describe how your product or service that you are providing to the District will promote the District's Environmentally Sustainable Procurement goal.**

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I certify (or declare) under penalty of perjury that the foregoing is true and correct.

Contractor Name: \_\_\_\_\_ Title: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Peralta Community College District

### CERTIFICATE REGARDING WORKERS' COMPENSATION

Labor Code Section 3700 in relevant part provides:

"Every employer except the State shall secure the payment of compensation in one or more of the following ways:

- (a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
- (b) Be securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees."

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract and will require all subcontractors to do the same.

\_\_\_\_\_  
Contractor

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

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.)



**Peralta Community College District**

**Statement of Equal Employment Opportunity**

I hereby certify that \_\_\_\_\_  
(Legal Name of Vendor/Consultant/Contractor)

Will not discriminate against any employee or applicant for employment because of race, creed, sex, color or national origin and shall insure compliance with all provisions of Executive Order No. 11246 (as amended by Executive order No.11375).

The vendor's questionnaire requests information for record keeping purposes only. The information requested will not be used as a basis for contract award.

However, after a contract is awarded to your company, the District requires your company to report:

- a. Actual racial, gender and residential workforce composition of your company for the contract work.
- b. Actual racial, gender and residential workforce composition of subcontractors for the contract work.
- c. Number of apprenticeship workforce for the contract work.

This report must be submitted to the District Department of General Services on a quarterly basis.

I declare under penalty of perjury under the laws of the state of California that the information I have provided herein is true and correct and is of my own personal knowledge.

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

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



## Peralta Community College District

### **SMALL LOCAL BUSINESS ENTERPRISE and SMALL EMERGING LOCAL BUSINESS ENTERPRISE PROGRAM**

The District is committed to ensure equal opportunity and equitable treatment in awarding and managing its public contracts and has established an annual overall program goal of twenty-five percent participation for small local businesses. To facilitate opportunities for small local business, the District will use a maximum 5% bidding preference for SLBE and SELBE firms. The preference is only used for computation purposes to determine the winning bidder, the contract is awarded at the actual bid amount. Please review the following guidelines to see if your firm qualifies for the preference.

The 5% bidding preference for an SLBE and SELBE firms are for construction, personal and professional services, goods and services, maintenance, repairs, and operations where responsibility and quality are equal. The preference will be 5% of the bid amount of the lowest responsive responsible bidder, and may not exceed \$50,000.00 for any bid.

A Non-SLBE/SELBE Prime Contractor who utilizes 25% of total bid amount, with SLBE or SELBE subcontractors (who meet the District's Definition of an SLBE and SELBE), can also receive a maximum of 4% bidding preference, not to exceed \$50,000.00 for any bid. (See below Subcontractor section.)

#### **Definitions:**

**SLBE:** A Small Local Business Enterprise is a business that has not exceeded gross annual revenue of 8.5 million dollars for a construction firm, or 6 million dollars for goods and non-professional services firm, or 3 million dollars for architecture, engineering and professional services firm, for the past three consecutive years and meets the below geographic location requirements.

**SELBE:** A Small Local Emerging Business Enterprise is a business that has not exceeded gross annual revenue of 1.5 million dollars for the past three consecutive years and meets the below geographic location requirements.

**Commercially Useful Function:** Shall mean a business is directly responsible for providing the materials, equipment, supplies or services to the District as required by the contract solicitation. The business performs work that is normal for its business services and carries out its obligation by actually performing, managing, or supervising the work involved. The business is **not** Commercially Useful if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of SLBE or SELBE participation.

#### **Geographic Location Requirements:**

- The business must be located at a fixed, established commercial address located in the District's market area of Albany, Alameda, Berkeley, Emeryville, Oakland, or Piedmont, and not a temporary or movable office, a post office box, or a telephone answering service.
- If the business has an office outside of the District's market area as well as an office within the market area, the office within the District's market area must be staffed on a full time permanent basis with someone employed by the business.
- If requested, the business that has an office outside of the District's market area must provide proof of one or more past contracts citing the business address (such as contracts to perform work, to rent space or equipment, or for other business services) was within the District's market area at least one (1) year prior to the date of contract award. The one-year requirement does not apply to businesses whose sole establishment is located within the District's market area.

## **Subcontractors:**

Non-SLBE/SELBE Prime Contractors who use subcontractors, who meet the district definitions of SLBE and SELBE, may receive a maximum of 4% bidding preference if the following conditions are met:

1. 25% of total bid amount is with Subcontractors who meet the District's definition of an SLBE and SELBE. The Prime Contractor must list each Subcontractor on the Subcontractor List form, clearly identifying the SLBE and SELBE status and the Dollar Amount of work each subcontractor will perform.
2. The Subcontractors must provide a Commercially Useful Function.
3. The Prime Contractor must maintain the Subcontractor percentages (based on the quoted dollar amounts) indicated in the Subcontractor List form at the time the Contract is awarded and throughout the term of the Contract.
4. The Prime Contractor must fill out sign the SLBE/SELBE Self Certification Affidavit and return it with the bid documents, and 48 hours after the bid opening the Prime Contractor must submit signed SLBE/SELBE Self Certification Affidavit from each of the SLBE and SELBE subcontractors listed in the Subcontractor form. The Subcontractor must agree to provide the requested documentation to verify the SLBE/SEBLE status.
5. No Substitutions can be made to the SLBE and SELBE subcontractor without the prior written approval of the District. The District will approve a subcontractor substitution on the following conditions:
  - a. A written statement from the subcontractor agreeing to the substitution.
  - b. When the subcontractor has been given a reasonable opportunity to execute the subcontract, yet fails to, or refuses to execute the subcontract, or refuses to satisfy contractual obligations.
  - c. When the subcontractor becomes insolvent.
  - d. When the District determines the work performed by the subcontractor is not in accordance with the contact agreement, or the subcontractor is substantially and unduly delaying or disrupting the progress of work.

Firms that meet the District criteria for an SLBE and SELBE can complete the below self-certification affidavit signed under penalty of perjury. Firms claiming SLBE and SELBE status in the self-certification affidavit will be required to submit proof of residency and revenue 48 hours after bid opening. Such proof shall consist of a copy of a contract to perform work, to rent space or equipment, or for other business services, executed from their local address, and the firm's tax returns for the past three consecutive years.



# Peralta Community College District

## SLBE/SELBE SELF CERTIFICATION AFFIDAVIT

I certify under penalty of perjury that my firm meets the District's definition of a Small Local Business Enterprise or a Small Emerging Local Business Enterprise and resides in the geographic location of the District's market area and qualifies for the below preference. The maximum preference will be five percent of the bid amount of the lowest responsible bidder, and may not exceed \$50,000.00 for any bid. The preference is only used for computation purposes to determine the winning bidder; the contract is awarded at the actual bid amount. The District's Contract Compliance Office will determine whether this requirement has been fulfilled. Bidders may only claim one of the below preferences.

Certification Status	Preference	Preference Claimed (check only one)
SLBE	5% of lowest bid	
SELBE	5% of lowest bid	
25% of Subcontractors are SLBE/SELBE	4% of lowest bid	
Not Applicable	None	

1. I acknowledge and am hereby advised that upon a finding of perjury with the claims made in this self certification affidavit the District is authorized to impose penalties which may include any of the following:
  - a) Refusal to certify the award of a contract
  - b) Suspension of a contract
  - c) Withholding of funds
  - d) Revision of a contract for material breach of contract
  - e) Disqualification of my firm from eligibility for providing goods and services to the Peralta Community College District for a period not to exceed five (5) years
  
2. I acknowledge and have been advised and hereby agree that my firm will be required to provide proof (and if applicable, my SLBE and SELBE Subcontractors will provide proof) of the status claimed on this self-certification affidavit 48 hours after bid opening. Proof of status claimed includes tax returns from the previous three years and past contracts to determine the size and geographical location of my firm.
  
3. I declare that the above provisions are attested to under penalty of perjury under the laws of the State of California.

RFP Number: \_\_\_\_\_ RFP Name: \_\_\_\_\_

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed or typed name

\_\_\_\_\_  
Title



**Peralta Community College District**

**NON-COLLUSION AFFIDAVIT**

(To be executed by bidder and submitted with bid)

**17-18/37 Collection Agency Services, Multi-Year Contract**

State of California, County of \_\_\_\_\_

(Name) \_\_\_\_\_, being first duly sworn, deposes and says that he or she is (title) \_\_\_\_\_ of (company) \_\_\_\_\_ the party making the foregoing bid that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, 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 bid are true; and, further, that the bidder has not, directly or indirectly, submitted his or her bid 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 collusive or sham bid.

I certify (or declare) under penalty of perjury that the foregoing is true and correct.

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



## GENERAL PROVISIONS

Definition: The words **Contractor** means any Bidder, Vendor or Proposer who provides a good, service or construction to Peralta Community College District (PCCD).

1. **ASSIGNMENT/DELEGATION:** Neither party hereto shall assign, sublet or transfer any interest in this Agreement or any duty hereunder without written consent of the other, and no assignment shall be of any force or effect whatsoever unless and until the other party shall have so consented.

2. **STATUS OF CONTRACTOR:** The parties intend that CONTRACTOR, in performing the services herein specified, shall act as an independent contractor and shall have control of the work and the manner in which it is performed. CONTRACTOR is not to be considered an agent or employee of DISTRICT and is not entitled to participate in any pension plans, insurance, bonus or similar benefits DISTRICT provides its employees.

3. **INDEMNIFICATION:**

(a) CONTRACTOR agrees to accept all responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release DISTRICT, its officers, agents and employees, from and against any and all actions, claims, damages, disabilities or expenses including attorney's fees and witness costs that may be asserted by any person or entity, arising out of or in connection with the tortuous acts or errors or omissions of CONTRACTOR hereunder, whether or not there is concurrent passive or active negligence on the part of DISTRICT, but excluding liability due to the sole negligence or willful misconduct of DISTRICT. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for CONTRACTOR or its agents under workers' compensation acts, disability benefit acts, or other employee benefit acts.

(b) CONTRACTOR shall be liable to DISTRICT for any loss or damage to DISTRICT property arising from or in connection with CONTRACTOR'S performance hereunder.

4. **INSURANCE:** With respect to the performance of work under this Agreement, CONTRACTOR shall maintain and shall require all of its subcontractors to maintain insurance as described below:

(a) Worker's compensation insurance with statutory limits as required by the Labor Code or the State of California. Said policy shall be endorsed with the following specific language: "This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to the DISTRICT".

(b) Commercial or Comprehensive General Liability insurance covering bodily injury and property damage utilizing an occurrence policy form, in an amount no less than \$1,000,000 combined single limit for each occurrence and \$2,000,000 in the aggregate. Said insurance shall include, but not be limited to: premises and operations liability, independent contractors liability, and personal injury liability.

(c) Automobile liability insurance covering bodily injury and property damage in an amount no less than \$1,000,000 combined single limit for each occurrence. Said insurance shall include coverage for owned, hired, and non-owned vehicles.

(d) Each said comprehensive or commercial general liability and automobile liability insurance policy shall be endorsed with the following specific language:

(1) DISTRICT, its officers and employees, is named as additional insured for all liability arising out of the operations by or on behalf of the named insured in the performance of this Agreement.

(2) The inclusion of more than one insured shall not operate to impair the rights of one insured against another insured, and the coverage afforded shall apply as though separate policies had been issued to each insured, but the inclusion of more than one insured shall not operate to increase the limits of the company's liability.

(3) The insurance provided herein is primary coverage to DISTRICT with respect to any insurance or self-insurance programs maintained by DISTRICT and no insurance held or owned by DISTRICT shall be called upon to contribute to a loss.

(4) This policy shall not be canceled or materially changed without first giving thirty (30) days prior written notice to DISTRICT.

(e) **Professional Liability** Not Applicable

(f) **Documentation:** The following documentation shall be submitted to the DISTRICT:

(1) Properly executed Certificates of Insurance clearly evidencing all coverage's, limits, and endorsements required above. Said certificates shall be submitted prior to the execution of this Agreement.

(2) Signed copies of the specified endorsements for each policy. Said endorsement copies shall be submitted within thirty (30) days of execution of this Agreement.

(3) Upon DISTRICT'S written request, certified copies of insurance policies. Said policy copies shall be submitted within thirty (30) days of DISTRICT'S request.

(g) **Policy Obligations:** CONTRACTOR'S indemnity and other obligations shall not be limited by the foregoing insurance requirements.

(h) **Material Breach:** If CONTRACTOR, for any reason, fails to maintain insurance coverage that is required pursuant to this Agreement, the same shall be deemed a material breach of contract. DISTRICT, at its sole option, may terminate this Agreement and obtain damages from the CONTRACTOR resulting from said breach. Alternatively, DISTRICT may purchase such required insurance coverage, and without further notice to CONTRACTOR, County may deduct from sums due to CONTRACTOR any premium costs advanced by DISTRICT for such insurance. These remedies shall be in addition to any other remedies available to DISTRICT.

5. **METHOD AND PLACE OF GIVING NOTICE, SUBMITTING BILLS AND MAKING PAYMENTS:**

A purchase order number must appear on all invoices and notices, bills and payments. All notices, bills and payments shall be made in writing and may be given by personal delivery or by mail. Notice, bills and payments sent by mail shall be addressed as follows:

DISTRICT:

Peralta Community College District  
333 East 8<sup>th</sup> Street  
Accounts Payable Department  
Oakland, CA 94606

CONTRACTOR:

and when so addressed, shall be deemed given upon receipt via United States Mail, postage prepaid, provided it is forwarded "certified", or "registered" with proof of receipt. In all other instances, notices, bills, and payments shall be deemed given at the time of actual personal delivery. Changes may be made in names and addresses of the person to who notices, bills and payments are to be given by giving notice pursuant to this paragraph.

6. **MERGER:** This writing is intended both as the final expression of the Agreement between the parties hereto with respect to the included terms and as a complete and exclusive statement of the terms of the Agreement. No modification of this Agreement shall be effective unless and until such modification is evidenced by a writing signed by both parties.

7. **TRANSFER OF RIGHTS:** CONTRACTOR assigns to DISTRICT all rights throughout the work in perpetuity in the nature of copyright, trademark, patent, right to ideas, in and to all versions of the plans and specifications now or later prepared by CONTRACTOR in connection with the project, if any. CONTRACTOR agrees to take such actions as are necessary to protect the rights assigned to DISTRICT in this Agreement, and to refrain from taking any action which would impair those rights. CONTRACTOR'S responsibilities under this contract include, but are not limited to, placing proper notice of copyright on all versions of the plans and specifications as CONTRACTOR may direct, and refraining from disclosing any versions of the plans and specifications to any third party without first obtaining written permission of DISTRICT.

8. **NONDISCRIMINATION:** CONTRACTOR shall comply with all applicable federal, state and local laws, rules and regulations in regard to nondiscrimination in employment because of race, color, ancestry, national origin, religion, sex, sexual orientation, marital status, age, medical condition, disability, transgender status or other prohibited basis. All nondiscrimination rules or regulations required by law to be included in this Agreement are incorporated by this reference.

9. **EXTRA (CHANGED) WORK:** Only the Chancellor or designee may authorize extra (and/or changed) work. The parties expressly recognize that DISTRICT and College personnel are without authorization to either order extra (and/or changed) work or waive contract requirements. Failure of the CONTRACTOR to secure proper authorization for extra work shall constitute a waiver of any and all right to adjustment in the contract price or contract time due to such unauthorized extra work and the CONTRACTOR thereafter shall be entitled to no compensation whatsoever for the performance of such work.

10. **CONFLICT OF INTEREST:** CONTRACTOR represents that it presently has no interest which would conflict in any manner or degree with the performance of services contemplated by this Agreement. CONTRACTOR further represents that in the performance of this Agreement, no person having such interest will be employed.

11. **OWNERSHIP OF WORK PRODUCT:** DISTRICT shall be the owner of and shall be entitled to immediate possession of accurate reproducible copies of any design computations, plans, correspondence or other pertinent data and information gathered or computed by CONTRACTOR prior to termination of this Agreement by DISTRICT or upon completion of the work pursuant to this Agreement.

12. **CONTRACTOR'S WARRANTY:** DISTRICT has relied upon the professional ability and training of CONTRACTOR as a material inducement to enter into this Agreement. CONTRACTOR hereby warrants that all its work will be performed in accordance with generally accepted professional practices and standards as well as the requirements of applicable federal, state and local laws, it being understood that acceptance of CONTRACTOR'S work by DISTRICT shall not operate as a waiver or release.

13. **TAXES:** CONTRACTOR agrees to file federal and state tax returns and pay all applicable state and federal taxes on amounts paid pursuant to this Agreement. In case DISTRICT is audited for compliance regarding any applicable taxes, CONTRACTOR agrees to furnish DISTRICT with proof of payment of taxes on those earnings.

14. **DUE PERFORMANCE:** Each party to this Agreement undertakes the obligation that the other's expectation of receiving due performance will not be impaired. When reasonable grounds for insecurity arise with respect to the performance of either party, the other may, in writing, demand adequate assurance of due performance and until such written assurance is received may, if commercially reasonable, suspend any performance for which the agreed return has not been received.

15. **NO THIRD-PARTY BENEFICIARIES:** There are no intended third-party beneficiaries of this Agreement.

16. **NO WAIVER OF BREACH:** The waiver by DISTRICT of any breach of any term or promise contained in this Agreement shall not be deemed to be a waiver of such term or promise or any subsequent breach of the same or any other term or promise contained in this Agreement.

**End of Section**



**Peralta Community College District**

**RFP Acknowledgement and Signature Form**  
**17-18/37 Collection Agency Services, Multi-Year Contract**

The undersigned having carefully examined the location of the proposed work, the local conditions of the place where the work is to be done, the Invitation, the General Conditions, the Specifications and all of the documents for this project, and accurately completed the Bidder's Questionnaire, proposes to enter into a contract with Peralta Community College District to perform the work listed in this RFP, including all of its component parts, and to furnish any and all required labor, materials, equipment, insurance, bonding, taxes, transportation and services required for this project in strict conformity with the plans and specifications prepared, including any Addenda, within the time specified.

**Addendum Acknowledgement**

The following addendum(s) are acknowledged in this RFP: \_\_\_\_\_

**Acknowledgement and Signature:**

1. No Proposal is valid unless signed in ink by the person authorized to make the proposal.
2. I have carefully read, understand and agree to the terms and conditions on all pages of this proposal. The undersigned agrees to furnish the services stipulated on this proposal.

Vendor Name: \_\_\_\_\_ Title: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

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

Contractor License #: \_\_\_\_\_ Expiration Date: \_\_\_\_\_

Federal Tax Identification Number: \_\_\_\_\_

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**Decline Proposal:**

We **do not** wish to submit a Proposal on this Project. Please state your reason below. Please also indicate if you would like to remain on our vendor list.

Reason: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Company: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Signature \_\_\_\_\_ Date: \_\_\_\_\_



**Peralta Community College District**

**CONTRACT TEMPLATE**

**PERALTA COMMUNITY COLLEGE  
DISTRICT**

**MASTER SERVICES AGREEMENT**

**SERVICES AGREEMENT**  
(Contract No. \_\_\_\_\_)

This SERVICES AGREEMENT (“Agreement”) is made and entered into as of this \_\_\_\_\_, 2018 (the “Effective Date”) by and between Peralta Community College District (“District”) and [corporation formed under the laws of the State of California] (“Vendor”). This Agreement commences on the Effective Date and expires on \_\_\_\_\_, 2018, unless terminated or extended as provided herein (the “Term”). District and Vendor each agree as follows:

**1. DEFINITIONS**

1.1. “Confidential Information” means commercial, financial, marketing, business and technical or other information, data and materials, including know-how, trade secrets, specifications, processes, business methods, drawings, computer systems and network design, architecture and operations, proprietary software, inventions, methodologies, photographs, electronic recordings and other similar confidential information of whatever nature relating to the disclosing Party or its businesses (including Confidential Information of a disclosing Party’s consultants, agents and vendors or Confidential Information related to students, personnel and faculty of a Peralta Entity) which is (i) marked to indicate its confidential or proprietary status, or (ii) by its nature is proprietary or non-public, even if not marked, and regardless of how disclosed.

1.2. “Customer” means the Peralta Entity identified in the introductory paragraph on whose behalf this Agreement is being executed.

1.3. “Deliverable” means tangible and intangible materials, data and work product developed and/or supplied by Vendor to Customer pursuant to a SOW, including without limitation, discoveries, developments, designs, reports, studies, analyses, software (object and source code), flow charts, diagrams, documentation, training materials, methods, processes, products, inventions, improvements, original works of authorship, tools, and utilities including all Intellectual Property Rights related thereto, Vendor’s Pre-Existing Materials and Third Party Materials.

1.4. “Intellectual Property Rights” means all rights in any copyrights, trade secrets, patents, patentable inventions, patent applications, trademarks, service marks, logos, slogans, trade secrets, concepts, ideas, methodologies, procedures, processes, know-how, techniques or other intellectual property rights, whether or not they are registrable.

1.5. “Peralta Entity” means any of the Peralta Community College District and its four colleges: Berkeley City College, College of Alameda, Laney College, and Merritt College.

1.6. “Law” means federal, state and local statutes, implementing regulations, executive orders, ordinances and case law.

1.7. “Party” or “Parties” means with respect to the Agreement, Vendor, and Customer.

1.8. “Pre-Existing Materials” means any Intellectual Property Rights that a Party developed, acquired or otherwise has rights in or to, either outside the scope of and independent from the SOW, or if related to the scope of the SOW was developed or acquired by a Party prior to commencing services under the SOW.

1.9. “Price” means Vendor’s billing rates or prices for the Services provided under this Agreement as set forth in the SOW.

1.10. “Services” means the services of Vendor as specified and described in the Scope of Work entered into by the Parties, including all Deliverables provided in connection with those services.

1.11. “Specifications” means the descriptions, specifications, functional requirements, technical requirements, acceptance criteria, documentation requirements and all other requirements for the Services and Deliverables described in the SOW.

1.12. “Scope of Work” or “SOW” means the Scope of Work form attached hereto as Exhibit A, and incorporated herein as may be updated from time to time by a Change Order(s).

1.13. “Third Party Materials” means tangible or intangible materials, products or property which are owned or licensed by a person or entity that is not a party to the SOW.

**2. [RESERVED]**

**3. SERVICES AND COMPENSATION**

3.1. Scope and Delivery of Services. Vendor has a business providing services of the type described herein. During the Term of this Agreement, Vendor agrees to supply the Services and deliver the Deliverables to Customer according to the terms and conditions set forth in this Agreement and the SOW. Customer will have no obligation to pay for any

Services or Deliverables not specified or described in the SOW.

3.2. Acceptance. Unless another period is specified in the SOW, Customer will use commercially reasonable efforts to review, test or otherwise evaluate Deliverables and other results of Services for compliance with the Specifications and to provide a written notice of acceptance or rejection to Vendor.

3.3. Rejection. Customer may require Vendor to promptly correct or replace any Deliverables, without charge and in a timely manner, that are non-conforming or fail to comply in all material respects with the applicable Specifications as part of the Acceptance process and as part of the warranty for the Deliverable. Acceptance of a Deliverable by Customer will not occur until Vendor has provided corrections or a replacement of the Deliverable such that it conforms to the Specifications as reasonably determined by Customer. If Services are rejected as nonconforming, Customer may require Vendor to promptly re-perform the Services or, if re-performance is not feasible, refund all fees and expenses paid for such non-conforming Services and Deliverables. Payment for Services does not eliminate Customer's right to seek the remedies set forth in this Section for non-conforming or incorrect Services or Deliverables.

3.4. Fees and Expenses. All Services provided under this Agreement will be billed at the Price specified in the SOW. Price will remain firm throughout the Term of the SOW unless modified by the Parties pursuant to a duly executed Change Order. Vendor's fees may only be charged for time spent on productive work under a SOW and not for time spent performing administrative functions, such as preparing invoices, expense reports or traveling. Unless otherwise agreed in a SOW, in no event will Vendor charge fees for more than eight (8) hours per day of work for each of Vendor's personnel. Vendor may bill for reasonable travel and other out of pocket expenses actually incurred in performing the Services only to the extent that such expenses are pre-approved by Customer in the SOW and conform to District's Travel and Expense Reimbursement Policy attached as Exhibit B and incorporated herein by this reference. Notwithstanding any other provision of this Agreement, Customer will not be liable for fees or expenses for Services exceeding the value of the "Not to Exceed Limit" specified in the SOW, if applicable.

3.5. Invoices. Vendor may invoice Customer for Services and Deliverables that have been accepted in accordance with the milestone or payment schedule reflected in the applicable SOW or, in the absence of such a schedule, on a monthly basis, within thirty (30) days of the end of each month. Customer reserves the right to reject any invoice received more than ninety (90) days after the end of the month in which the Services were rendered or the expenses incurred. Contractor's invoices must comply with the District's requirements.

3.6. Payment. Customer will pay Vendor within forty-five (45) days of receipt of an accurate, complete and undisputed invoice. If Customer disputes an invoice in whole or in part, Customer will provide written notice to Vendor stating the amount and basis of Customer's objection. Vendor may submit a separate invoice to Customer for the undisputed portion, which will be paid by Customer as provided in this Section.

3.7. Taxes. Customer will have no obligation to Vendor, Vendor's employees or any taxing authority to pay, or withhold from payment hereunder, any Federal, State, or local income tax, or any portion of FICA or any other payroll, compensatory or other taxes relating to any individual assigned by Vendor to provide Services (collectively, "Payroll Taxes").

#### **4. WARRANTIES**

4.1. General. Vendor represents and warrants that:

(a) All Services performed and Deliverables delivered: (i) will be free from defects in design, workmanship and materials; and (ii) will conform to the applicable Specifications;

(b) Vendor's employees and agents have the certifications, skills and qualifications necessary to perform the Services in a timely, competent, and professional manner in accordance with Law and generally accepted industry standards; and

(c) Vendor owns or has the unencumbered right to license and/or assign to Customer, as provided in this Agreement and the SOW, the Deliverables and all results of Services delivered to Customer hereunder, including all required Intellectual Property Rights therein, which Services and Deliverables will not infringe on the Intellectual Property Rights of others.

(d) Harmful Code. To the extent the Services or Deliverables include or involve software, Vendor has and will maintain commercially reasonable quality assurance and virus protection procedures to ensure that its systems and all software Deliverables are free of viruses, contaminants, and other malicious code that may harm the software Deliverables or Customer systems.

4.2. Warranties Cumulative. The warranties provided in this Section and all other warranties provided in this Agreement are cumulative and are in addition to any other warranties provided under law.

4.3. Disclaimer. EXCEPT AS SET FORTH IN THIS AGREEMENT, VENDOR DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. EXCEPT WITH RESPECT TO VENDOR'S CONFIDENTIALITY AND INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT WILL VENDOR OR ANY PERALTA ENTITY BE LIABLE FOR ANY SPECIAL,



PUNITIVE OR CONSEQUENTIAL LOSSES OR DAMAGES ARISING HEREUNDER, EVEN IF VENDOR OR THE PERALTA ENTITY HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH POTENTIAL LOSS OR DAMAGE.

## 5. CONFIDENTIALITY AND PROPRIETARY RIGHTS

5.1. Confidentiality. Each Party receiving Confidential Information (“Receiving Party”) of the other Party (“Disclosing Party”) will maintain such Confidential Information securely in confidence and will not, without the Disclosing Party’s prior written consent, disclose such Confidential Information to any third party other than the Receiving Party’s legal advisors, auditors or approved subcontractors. A Receiving Party may use Confidential Information only as reasonably and minimally necessary to perform its obligations under this Agreement. Unless otherwise agreed in the SOW, this Section 5 does not restrict a Customer’s ability to use or disclose any Confidential Information of Vendor that is incorporated into the Services or any Deliverables provided or supplied to Customer. Confidential Information does not include information which a Party can demonstrate is (a) publicly available, (b) already in its possession without breach of a confidentiality obligation, or (c) independently developed. No Party will be liable for disclosure of Confidential Information to the extent made: (a) to comply with a valid California Public Records Act request (as applicable to public entities); or (b) in response to a valid order of court or authorized government agency, provided that notice must first be given to the Disclosing Party of the Confidential Information, so a protective order, if appropriate, may be sought by the Disclosing Party. Any such required disclosure shall not, in and of itself, change the status of the disclosed information as Confidential Information under the terms of this Agreement.

5.2. Pre-Existing Materials and Third Party Materials. Each Party will retain its rights in its own Pre-Existing Materials and in any Third Party Materials that may be used in connection with Services. No rights in such Pre-Existing Materials and Third Party Materials are granted to another Party except as expressly provided in this Agreement or the SOW. Vendor will not include any Pre-Existing Materials or Third Party Materials in a Deliverable unless they are specifically identified in the applicable SOW. Vendor hereby grants to Customer a royalty-free, fully paid-up, worldwide, non-exclusive, perpetual, irrevocable, transferable and sub-licensable right to use, operate, maintain, copy, exploit, modify and create derivative works of Vendor’s Pre-Existing Materials and any Third Party Materials provided by Vendor that are incorporated or included in the Services or a Deliverable, provided that Customer and its consultants, contractors and vendors may use such Pre-Existing Materials and Third Party Materials

solely within the context of the Services or Deliverables provided under this Agreement.

5.3. Ownership of Deliverables. Services performed by Vendor and the Deliverables provided by Vendor pursuant to the SOW are and will be deemed a work made for hire or specially commissioned work, and the District will be the exclusive owner of all rights, title and interest in and to all Deliverables, excluding Vendor’s Pre-Existing Materials and Third Party Materials. To the extent that title to any Deliverable may not, by operation of law, vest in Customer, Vendor will and hereby does assign to Customer all rights, title, and interest in the Deliverables, excluding Vendor’s Pre-Existing Materials and Third Party Materials. Customer will have the right to obtain and to hold in its own name (or the name of a Peralta Entity), patents, copyrights, registrations and such other protection as may be appropriate to the subject matter, and any extensions and renewals thereof. Vendor shall cooperate with Customer and shall assist and execute any instruments necessary to secure the Customer’s rights in the Services and Deliverables. Vendor further agrees its obligations under this Section shall continue during and at all times after the termination or expiration of this Agreement. Vendor hereby irrevocably designates and appoints the Customer and its duly authorized officers and agents as Vendor’s agent and attorney-in-fact, to act for and on behalf of Vendor to execute and file any such instruments and papers and to do all other lawfully permitted acts to further the application for the registration of any Deliverables and Intellectual Proprietary Rights thereunder. This power of attorney is coupled with an interest and shall not be affected by Vendor’s subsequent incapacity or inability to sign.

## 6. TERM AND TERMINATION

6.1. Term. Unless otherwise agreed in writing, Customer may extend the Term (as defined in the first paragraph of this Agreement) for such additional period of time as agreed to by Vendor and the Customer in writing in the form of an amendment hereto executed prior to the expiration of the then-current Term, subject to any requisite Board of Trustee approvals.

6.2. Termination for Cause. Either Party may terminate this Agreement hereunder in the event of a breach by the other Party that has not been cured within thirty (30) days after the breaching Party’s receipt of written notice from the other party describing such breach in reasonable detail. Upon termination of the Agreement by Customer for Vendor’s breach, Customer will have no obligation to make any payments with respect to Services or Deliverables on or after the effective date of termination, except for payment of those Services properly provided by Vendor prior to the termination date in accordance with the SOW, and will be entitled to a pro-rata refund of any prepayments made.

6.3. Termination without Cause. Customer may terminate this Agreement without cause upon thirty

(30) days prior notice to Vendor. To the extent Vendor's compensation is on a time and materials basis, Vendor will be compensated for all Services performed and permitted expenses incurred up to the effective date of termination at the Price and subject to any expense reimbursement limits or conditions specified herein. If compensation for the Services and expenses is on a fixed fee basis, Vendor will receive a prorated amount of the SOW compensation equal to the percentage of Services (and Deliverables) completed as of the termination date of the Agreement.

6.4. Effect of Termination. Unless otherwise specified in a termination notice:

Termination or expiration of this Agreement will not terminate the provisions of this Agreement which by their nature must survive termination or expiration in order to achieve the fundamental purposes of this Agreement, including without limitation, Sections 4, 5, 6, 7, and 8 which shall specifically survive any termination or expiration of this Agreement.

Upon termination or expiration of this Agreement for any reason, all Services and Deliverables, including all drafts and works in progress of Deliverables will be promptly delivered by Vendor in a timely manner to Customer upon Customer's request and as a condition of payment for the Services. Upon Vendor's receipt of a notice of termination, Vendor will cease all work and minimize any additional costs or reimbursable expenses unless otherwise directed in writing by such Customer. Customer has the right to withhold or offset against any payments due to Vendor such amounts that Customer is otherwise entitled to under this Agreement.

## 7. INDEMNITY AND INSURANCE

7.1. General Indemnification. Vendor will defend, indemnify and hold Customer and all Peralta Entities and their respective officers, directors, Board of Trustees, employees, contractors, students, insurers and agents (each an "Indemnified Party") harmless from and against all damages, claims, demands, costs (including fees of attorneys and expert witnesses) or other losses (collectively, "Losses") brought against an Indemnified Party and arising from Vendor's, its employees' and subcontractors' breach of this Agreement, non-performance or the negligence or willful misconduct of Vendor, its employees and subcontractors; provided however, if the foregoing indemnification is based on Vendor's proven fault and there is also proven fault on the part of an Indemnified Party, the indemnification shall be administered on a comparative fault basis.

7.2. Personnel Indemnity; Tax Indemnity. Vendor shall indemnify, defend and hold harmless the Indemnified Parties from any and all Payroll Taxes and taxation treatments of the payments made to Vendor under this Agreement as well as any other

Employment Liabilities arising out of any act or omission of Vendor in its capacity as the contractor, employer or prospective employer of any person. As used herein, "Employment Liabilities" means claims, suits, demands, damages or other losses and damages arising in the course of the employment relationship, including claims of harassment, discrimination, wrongful discharge, payment of compensation, benefits or salary, non-payment of taxes, failure to withhold, or claims arising under workers' compensation laws, unemployment compensation laws, occupational health and safety laws, disability laws, ERISA, or any other applicable federal, state or local laws or regulations.

7.3. Infringement Indemnification. Vendor will defend, indemnify and hold each Indemnified Party harmless from and against any Losses resulting from a claim that the Services furnished or the Deliverables delivered to Customer under this Agreement infringe any Third Party Materials or the Intellectual Property Rights of any third party or have become the subject of an injunction or settlement prohibiting the use of any Deliverables or other results of the Services except to the extent that such infringement or violation would not have occurred but for (a) Customer's unauthorized modification of the Deliverables which Vendor had made Customer aware of in writing; or (b) the failure of Customer to use any corrections or modifications expressly required by Vendor to avoid such infringement and made available in writing to Customer by Vendor reasonably in advance of such claim, provided that the corrected or modified Deliverable provides substantially the same features, functionality and performance as required by Customer for the Services and Deliverables. In such a case, Vendor will at its own expense (i) procure for Customer the right to continue using the results of the Services and the Deliverables, (ii) replace or fix the Deliverables or re-perform the Services with non-infringing Deliverables or components thereof with equivalent or better capacity and performance, or (iii) if options (i) and (ii) are not feasible, refund to Customer the entire amount (including fees, costs and expenses) paid for the Services and the Deliverables.

7.4. Insurance.

(a) At its sole expense, Vendor will procure and maintain in effect the following policies of insurance covering claims and liabilities arising from this Agreement: (i) all insurance coverages required by federal and state law; (ii) workers' compensation and employer's liability insurance with limits of \$1,000,000 each claim; (iii) commercial general comprehensive liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 aggregate, providing coverage for personal injury, or death of any persons and injury to or destruction of property, including loss of use resulting therefrom, and also including contractual liability covering Vendor's liability under this Agreement; and (iv) professional liability or errors and omissions insurance with limits of at least \$1,000,000, which provides

coverage on an occurrence basis or, if on a claims-made basis, then Vendor will maintain continuous coverage for five (5) years after the termination or expiration of this Agreement; and (v) automobile liability insurance with not less than an \$1,000,000 limit covering the use of any auto in the rendering of Services to be provided under this Agreement.

(b) The insurance required under this Section must be carried by companies rated "A, X" or better by A.M. All such insurance must be primary and noncontributing with respect to any policies carried by the Peralta Entities who shall, with the exception of the workers compensation coverage, be added as an additional insured. Vendor will, upon execution of this Agreement, provide Customer with an industry-standard certificate of insurance evidencing these coverages. Such certificate shall name the District, all of its colleges, Board of Trustees, officers and employees as additional insureds, and provide that it can be cancelled only with thirty (30) days prior written notice to Customer. If any of the foregoing coverages expire, change or are canceled, Vendor shall notify Customer no less than thirty (30) days prior the effective date of such expiration, change or cancellation. The insurance requirements under this Agreement will not limit or relieve Vendor of its duties, responsibilities or liabilities under this Agreement. Vendor may, upon the provision of financial assurances to the satisfaction of the District, and with the prior written consent of District, self-insure any of the above insurance obligations to the extent agreed to in writing by the District.

## **8. GENERAL**

8.1. Independent Contractor. Vendor is an independent contractor and engages in the operation of its own business. Neither Party is or will be deemed the agent of the other Party for any purpose, including entering into contracts, assuming obligations or making any warranties or representations on behalf of the other Party. Nothing in this Agreement will be construed to establish a relationship of co-partner or joint venture between the Parties. The Parties agree that by virtue of this Agreement or the provision of the Services under this Agreement, Vendor, its employees, subcontractors or agents shall not be entitled to any Peralta Entity's employee benefits or policies, including but not limited to vacation, sick leave, wages, severance, life insurance, death benefits, accident and health insurance, qualified pension or retirement plan or other benefits.

8.2. Subcontractors. Vendor will not subcontract or delegate any Services to any subsidiary, affiliate or third party except with Customer's prior written consent.

8.3. Successors and Assigns. Vendor will not assign, transfer or delegate any of the rights or obligations under this Agreement without the prior written consent of Customer. This Agreement and all of its provisions will inure to the benefit of and become

binding upon the Parties and the successors and permitted assigns of the respective Parties.

8.4. Non-Discrimination. Vendor agrees to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 11246, District Board Policy 4.03, and all applicable laws, rules, and regulations in regard to non-discrimination and equal opportunity. Vendor agrees and assures that Vendor will not discriminate against, permit discrimination against, harass, or permit harassment against any individual, including but not limited to employees, applicants for employment, or students, because of race, color, religion, creed, national origin, sex, actual or perceived sexual orientation, transgender status at any stage, marital status, disability, medical status or conditions, age, ancestry, gender identity, political affiliation, veteran status, or other personal characteristic protected by law.

8.5. I-9. Vendor certifies to District that Vendor shall comply during the Term with the Immigration Reform and Control Act of 1986 and any and all regulations promulgated thereunder.

8.6. Conflicts of Interest. Vendor represents that it is familiar with California Government Code Sections 1090 et seq. and 87100 et seq., and that it does not know of any facts that constitute a violation of said sections or the District's conflict of interest code, Board Policy 6.86. Vendor represents that it has completely disclosed to the District, and if applicable will disclose in the future, all facts bearing upon any possible interests, direct or indirect, which Vendor believes any member of the District, or other officer, agent, or employee of any Peralta Entity presently has, or will have, in the Agreement, or in the performance thereof, or in any portion of the profits thereunder. If Vendor subsequently becomes aware of any such facts, Vendor shall promptly provide notice to the District of same, along with a proposal for remedying the violation. The District, at its sole discretion, may determine whether the proposal or any other proposed resolution is satisfactory.

Vendor represents that it does not presently have, and shall not have during the Term, any direct or indirect interest that would conflict in any manner or degree with the performance of Services to be provided hereunder. Vendor further represents that it will not employ, subcontract to, or otherwise involve any person or entity having such conflicts of interest in the performance of Services hereunder. If Vendor subsequently becomes aware of any such conflicts of interest, Vendor shall promptly provide notice to the District of same, along with a proposal for remedying the violation. The District, at its sole discretion, may determine whether the proposal or any other proposed resolution is satisfactory.

8.7. Governing Law. Vendor shall comply with all applicable Laws relating to the provision of Services hereunder. This Agreement will be governed by the

laws of the State of California without giving effect to choice of law principles. Any action brought under or in relation to this Agreement will be brought in a state or federal court with venue in Alameda County, California.

8.8. Notices. All notices provided under this Agreement (“Notices”) must be in writing, and will be deemed given upon receipt if sent as follows: personally delivered or sent by confirmed fax, overnight mail by USPS or a commercial service with confirmed delivery, or certified mail (return receipt requested). If notice is mailed or faxed, delivery is effective at the date and time shown on the confirmation or return receipt. The addresses for notices are set forth on the signature page of this Agreement. These addresses may be changed by written notice to the other Party.

8.9. Publicity. Vendor will not, without the prior written consent of the District, use in advertising, publicity or otherwise the names, trade names, service marks, trade dress or logo of any Peralta Entity or refer to the existence of this Agreement in any press releases, advertising, web sites or materials distributed or made available to prospective customers or other third parties.

8.10. No Waiver. The waiver of a breach of any term or condition of this Agreement will not serve to waive any other breach of that term or condition, or of any other term or condition, unless agreed by the Parties in writing.

8.11. Severability. If any provision of this Agreement is found to be unenforceable, then the unenforceable provision will be reformed to conform to the law and all other parts of this Agreement will remain enforceable.

8.12. Remedies Cumulative. The rights and remedies of the Parties provided in this Agreement are cumulative and are in addition to any other rights and remedies provided by law.

8.13. Force Majeure. Neither Party will be liable for any delays resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, war or other violence, or any law, order or requirement of any governmental agency or authority (“Force Majeure”) if the Party claiming the Force Majeure uses reasonable efforts to continue to perform. A Party invoking Force Majeure will give prompt written notice thereof to the other Party.

8.14. Controlling Terms. The provisions of this Agreement supersede any inconsistent provisions in Vendor’s quote, proposal, confirmation, acceptance, acknowledgement or similar form. In the event of an actual conflict within this Agreement, the provisions will govern in the following order: (i) the main body of the Agreement; (ii) the applicable or most recent Statement or Work; and (iii) any other Exhibits attached to this Agreement. The provisions of this

Agreement and the terms of any Scope of Work, as amended by a Change Order will supersede any inconsistent provisions contained in Vendor’s quotation, invoice, confirmation, acceptance, acknowledgement or similar document. All terms or conditions proposed in Supplier’s acceptance or acknowledgment form which add to, vary from, or conflict with the provision in this Agreement will be void. Any pre-printed terms in Supplier’s documents will also be void. In the event of conflicting provisions between the following documents, the provisions will govern in the following order: the latest Change Order, if any; the Scope of Work; the main body of the Agreement; and the exhibits in order of priority as set forth in the table following the signature blocks.

8.15. Entire Agreement; Modifications. This Agreement may be executed in any number of counterparts, each of which is deemed an original but all of which constitute the same instrument. This Agreement may be executed by the exchange of faxed executed copies, certified electronic signatures, or copies delivered by electronic mail in Adobe Portable Document Format or similar format, and any signature transmitted by such means for the purpose of executing this Agreement is deemed an original signature for purposes of this Agreement. This Agreement, including all exhibits hereto (all of which are incorporated in this Agreement by reference), constitutes the entire agreement on this subject and supersedes all previous and contemporaneous communications, representations, or agreements between the Parties regarding the referenced subject matter. This Agreement may not be modified orally, and no modification, amendment, or supplement is binding unless it is in writing and signed by authorized representatives of District and Vendor.

<u>Exhibits</u>	<u>Order of Priority</u>
A	1

Scope of Work

IN WITNESS WHEREOF, District and Vendor have executed this Agreement as written below.

**VENDOR:**

\_\_\_\_\_,  
an individual  
Print Name

\_\_\_\_\_  
(Signature)

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

Address:

Kitchell CEM  
1180 Coleman Ave  
San Jose, CA 95110

PH: 408-280-7889

**PERALTA COMMUNITY COLLEGE DISTRICT**

By: \_\_\_\_\_  
Jowel C. Laguerre, PhD., Chancellor

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

Address and Contact Person for Notices:

Peralta Community College District  
Attn: Project Manager  
333 East 8<sup>th</sup> Street  
Oakland, CA 94606  
Fax: (510)587-7873

CC: Director of Purchasing Services  
Peralta Community College District  
333 East 8<sup>th</sup> Street  
Oakland, CA 94606

**EXHIBIT A**  
**SCOPE OF WORK**

**IN WITNESS WHEREOF**, the Customer identified on the first page hereof and Vendor have executed this Agreement as written below.

**VENDOR:**

**PERALTA COMMUNITY COLLEGE DISTRICT**

\_\_\_\_\_, an individual  
Print Name

By: \_\_\_\_\_  
(Signature)

Title: Chancellor  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

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

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

*Approved as to Legal Form:*

Address:

\_\_\_\_\_

Dated: \_\_\_\_\_

PH:

Address and Contact Person for Notices:

Project Manager  
333 East 8<sup>th</sup> Street  
Oakland, CA 94606

CC: Director of Purchasing Services  
Peralta Community College District  
333 East 8<sup>th</sup> Street  
Oakland, CA 94606)