



# PERALTA COMMUNITY COLLEGE DISTRICT

## RFQ No.:18-19/22

### REQUEST FOR QUALIFICATION

### ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE

The Board of Trustees of the Peralta Community College District (PCCD), Oakland, California, through the Department of General Services, and Purchasing, is hereby requesting Qualifications for the above mentioned service. The successful vendor will be required to furnish all labor, material, equipment, supplies, applicable taxes, insurance, bonding, and licenses to complete this project.

#### Qualification Information

<b>Project Description</b>	<b>Architectural Engineering Services District-wide</b>
<b>Project Number</b>	<b>18-19/22</b>
<b>Project Issued</b>	<b>January 11, 2019</b>
<b>Department</b>	<b>Department of General Services</b>
<b>Mandatory Pre- Qualification Meeting Date</b>	<b>January 23, 2019, at 2:00 PM (District Boardroom) 333 East Eighth Street, Oakland, CA 94606</b>
<b>Scheduled Publication Dates</b>	<b>January 11,2019 and January 18, 2019</b>
<b>Qualification Due Date</b>	<b>February 5, 2019 at 11:00 AM</b>

#### Instructions for Submitting Qualifications

<b>Submittal Address</b>	Peralta Community College District Purchasing Department Attn: Seraphine Nzomo, Purchasing Department 501 5 <sup>th</sup> Avenue Oakland, CA 94606
<b>Submittal Copies</b>	One (1) Original copy clearly marked "Original" AND One (1) copy on a Flash Drive

<b>Submittal Envelope Requirements</b>	Qualification 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>• Qualification Number</li> <li>• Name of Your Company</li> <li>• Address</li> <li>• Phone Number</li> </ul>
<b>Late Submittals</b>	<b>Qualifications received after the time and date stated above shall be returned unopened to the vendor.</b>

### How to Obtain Qualification Documents

Copies of the Qualification documents may be obtained at:

<b>Available</b>	<b>Location</b>
<b>Yes</b>	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
<b>Yes</b>	<b>Website:</b> <a href="http://www.peralta.edu">www.peralta.edu</a> and clicking on “Business Opportunities” and then on “List of Current RFPs/Bids” to download the RFQ packet.

## Questions about the Qualification

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

<b>Primary Contact</b>	<b>Seraphine Nzomo</b> Email: <a href="mailto:snzomo@peralta.edu">snzomo@peralta.edu</a>
<b>Question/RFI Due Date</b>	<b>January 25, 2019 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.
<b>Response Date</b>	<b>January 30, 2019 at 4:00 p.m.</b> All pertinent questions will be responded to <b>via addendum</b> faxed (or emailed) to all prospective bidders, and placed on the District's website. Proposer who did not receive a copy of the addendum should download it from the District's website. See "How to Obtain Qualification Documents" section for our web address. All addendums must be acknowledged on the RFQ Acknowledgement and Signature form. RFQ packages will be considered "incomplete", if all the addendums are not properly acknowledged.

## Full Opportunity

The Peralta Community College District hereby affirmatively ensures that, 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 Qualifications, to waive any irregularities or informalities not affected by law, to evaluate the Qualifications submitted and to award the contract according to the Qualification which best serves the interests of Peralta Community College District.

Dr. Sadiq B. Ikharo, PhD. Purchasing Department

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**Attachments:**

Title		Must Be Returned with Qualification
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	Yes, If applicable
6	SLBE/SELBE Self Certification Affidavit	Yes, If applicable
7	Non-Collusion Affidavit	Yes
8	General Provisions	NO
9	RFQ Acknowledgement and Signature Form	Yes
	Sample of Contract Agreement	NO

## **I. Project Overview**

**The Peralta Community College District (District) is seeking to establish a short list of pre-approved Architects and Design Engineers who will provide architectural design services and specification to assist the District with New Construction Projects and Modernization of existing facilities.**

The District currently has an active capital renewal project that encompasses building improvements throughout the District and its four campuses: College of Alameda, Berkeley City College, Laney College, Merritt College and the District Administrative Center (DAC). This capital construction project is funded by a combination of sources that includes funding from the State of California and local bond Measures. Measure A, Measure E and Measure G. The last local bond was approved by the Alameda county voters in November 2018.

For over fifty years, the Peralta Community College District has served over one million students from the communities of Albany, Alameda, Berkeley, Emeryville, Oakland, and Piedmont. In the current student enrollment report conducted by the RP Group in March 2017, it states that the District serves over 37,700 students within its four campuses in northern Alameda County.

The District intent is to create a listing of pre-qualified architectural firms. These firms will be called up to participate in the Capital Bond Program. The term of this RFQ will be five years. The Board of Trustees of the Peralta Community College District reserves the right to accept any or all candidates, to negotiate with any or all responsible candidates, and to waive any informality in the Request for Qualifications process. Interested firms shall be responsible for any and all expenses that they may incur in this process.

## **II. Scope of Services**

### **General Services**

The Architectural Design and Engineering firms will support the District Office, Department of General Services and the Capital Projects Building Program with the preparation of drawings and specifications for The Division of the State Architects (DSA) review and approval. These drawings will also be used to conduct a competitive bid process to select a licensed contractor to perform the work. All services will be on an as-needed basis. The Architectural Design and Engineering firms, as directed by the Vice Chancellor of General Services, the Director of Capital Projects, and /or the District's representative will assist the District with basic architectural and engineering services including, but not limited to the following:

#### **General Project**

- a. Provide topographical surveys, underground utilities surveys, geotechnical surveys, if applicable.
- b. Assist the DISTRICT in obtaining required approvals from governmental agencies (for both on and off-site approvals) and any other entities including, but not limited to, the fire department, as well as the County Health Department, and DSA. If necessary, the ARCHITECTURAL DESIGN FIRM shall secure preliminary agency approvals and notify the DISTRICT in writing as to the actions the DISTRICT must take to secure formal approvals.
- c. Assist the DISTRICT in determining the phasing of the PROJECT that will most efficiently and timely complete the PROJECT. This includes phasing the PROJECT's construction and the inspection approval process so Incremental Approvals as required under DSA's Construction Oversight Process Procedure can be obtained during the completion of the PROJECT.

- d. Provide a written preliminary evaluation of the DISTRICT's PROJECT, schedule, and construction budget requirements. Such evaluation shall include alternative approaches to design and construction of the PROJECT.
- e. Provide planning surveys, site evaluations and comparative studies of prospective sites, buildings, or locations, as applicable to the project.
- f. Attend regular PROJECT coordination meetings between the Architectural Design Firm's consultants, the DISTRICT's representative(s), and other consultants of the DISTRICT during PROJECT development.
- g. Provide services required due to programmatic changes in the PROJECT including, but not limited to, size, quality, complexity, method of bidding or negotiating the contract for construction through the completion of the Schematic Design Phase of services.
- h. Provide services in connection, collaboration and coordination with the work of a Construction Manager or separate consultants retained by DISTRICT.
- i. Provide estimates of the PROJECT's Construction Costs. Quantity of three (3) total. A preliminary cost estimate, revised at 50 % complete CD and 98% complete.
- j. Provide interior design and other services required for, or in connection with, graphics and signage, as an Additional Service.
- k. Cooperate and consult with DISTRICT in use and selection of manufactured items on the PROJECT, including, but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings.
- l. Prepare for and make formal presentations to the Governing Board of the DISTRICT, attend public hearings and other public meetings. The ARCHITECTURAL DESIGN FIRM shall be prepared to address concept and programmatic requirements for the PROJECT in such presentations, public hearings and public meetings. In addition, the ARCHITECTURAL DESIGN FIRM shall attend and assist in legal proceedings that arise from the errors or omissions of the ARCHITECTURAL DESIGN FIRM.
- m. Make reasonable accommodations for maintaining the same PROJECT representatives from the commencement of services under this AGREEMENT through the completion of the Project Close-Out Phase. Any change in key project staff will require the written approval of the DISTRICT.

### **1) Schematic Design Phase**

The Architectural Design Firm Shall:

- a. Meet with the DISTRICT to understand and verify the DISTRICT's requirements for its Program.
- b. Where the DISTRICT has not established a Program, the Architectural Design Firm Design shall work with the DISTRICT to help establish a Program and Budget based on available state funding, available grants, or available funds (in the cases where no funding or grants are available).
- c. Prepare, for approval by the DISTRICT, Schematic Design Documents consisting of drawings, renderings, programmatic outlines, and other documents illustrating the scale and relationship of the PROJECT's components. The Schematic Design Documents shall comply with all

applicable laws, statutes, ordinances, codes, rules, and regulations of the State and local governmental agencies and/or authorities having jurisdiction over the PROJECT, including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department, which are required for the final approval of the PROJECT's completed Construction Documents.

- d. Prepare schematic design studies and site utilization plans leading to a recommended solution together with a general description of the PROJECT and PROJECT's priorities for approval by the DISTRICT.
- e. Submit a list of qualified engineers for the PROJECT for the DISTRICT's approval in conformance with Article XII. ARCHITECTURAL DESIGN FIRM shall ensure that each engineer places his or her name, seal, and signature on all drawings and specifications prepared by said engineer.
- f. Investigate existing conditions or facilities and verify drawings of such conditions or facilities to the extent visually verifiable without destructive testing.
- g. Perform Schematic Design services to keep the PROJECT within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.
- h. Prepare and submit to the DISTRICT a written estimate of the Construction Cost.

## 2) **Design Development Phase (Preliminary Plans)**

The Architectural Design Firm Shall:

- a. Upon written approval by the DISTRICT of the Schematic Design services set forth above, the Architectural Design Firm shall prepare Design Development Documents based on the Schematic Design and based on the Program that has been approved by the DISTRICT. Such documents shall consist of site and floor plans, elevations, cross-sections, and other documents necessary to depict the design of the PROJECT, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECT as to the Program requirements, landscapes, architecture, civil, structural, mechanical, and electrical systems, materials, and such other essentials as may be appropriate. The Architectural Design Firm shall prepare the Design Development Documents to comply with the requirements of all governmental agencies having jurisdiction over the PROJECT including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department.
- b. Prepare and submit to the DISTRICT a written estimate of the Construction Cost.
- c. Perform all Design Development Services to keep the PROJECT within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

## 3) **Construction Document Phase (Final Plans)**

The Architectural Design Firm Shall:

- a. Prepare, from the Design Development Documents approved by the DISTRICT, Construction Documents in an acceptable Building Informational Modeling format, such as Autodesk Revit or AutoCAD Civil 3D including, but not limited to, all drawings and

specifications for the PROJECT setting forth, in detail, the requirements for the construction of the entire PROJECT in conformity with all applicable (on and off site) governmental and code requirements including, but not limited to, the requirements of the OPSC, DSA, the local fire marshal/department, the County Health Department and any other governmental agency having jurisdiction over the PROJECT. The Construction Documents shall show all the work to be done, as well as the materials, workmanship, finishes, and equipment required for the completion of the PROJECT.

- b. Prepare and file all documents required for, and obtain the required approvals of, all governmental agencies having jurisdiction over the PROJECT including, but not limited to, the OPSC, CDE, DSA, CEQA, local fire marshal/department, City Design Review, County Health Department, Department of Public Works, and any other governmental agencies or authorities which have jurisdiction over the PROJECT.
- c. Identify all tests and special inspections on the Statement of Structural Tests and Special Inspections (Form DSA 103) that are required for the completion of the PROJECT as designed and submit such DSA 103 to DSA for approval along with all other Construction Documents. Upon DSA's approval of the Construction Documents, including the approved DSA 103 for the PROJECT, the ARCHITECTURAL DESIGN FIRM shall ensure that a copy of the approved DSA 103 for the PROJECT is provided to the DISTRICT, the Laboratory of Record, each Special Inspector working on the PROJECT, the Project Inspector and the Contractor.

#### **4) Bidding & Award Phase**

The Architectural Design Firm Shall:

- a. Following the DISTRICT's approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the DISTRICT in obtaining bids and awarding the Contract for the construction of the PROJECT.
- b. Prepare and sign all written Addendums that are necessary to incorporate changes into the DSA approved Construction Documents prior to the award of the PROJECT. The ARCHITECTURAL DESIGN FIRM shall assist the DISTRICT in distributing all Addendums to each bidder that has obtained a set of the DSA approved Construction Documents. The ARCHITECTURAL DESIGN FIRM shall ensure that all Addendums are submitted to and approved by DSA prior to certification of the PROJECT.
- c. Deposit a reproducible set of Construction Documents including, but not limited to, all drawings and specifications for the PROJECT at a reprographics company specified by the DISTRICT for the bid and for printing of additional sets of the DSA approved Construction Documents during the PROJECT. In addition, the ARCHITECTURAL DESIGN FIRM shall provide the DISTRICT with a BIM format file with all layers unprotected so the DISTRICT may utilize with a Construction Manager or Design Build entity. It is expressly understood that the release of the underlying BIM documents is for the limited use only for the PROJECT (unless otherwise agreed to in writing) and that changes that are made to the underlying BIM documents are not the responsibility of ARCHITECTURAL DESIGN FIRM. For documentation purposes, one record set of the transmitted documents shall be placed on an acceptable electronic media properly labeled as the record set of documents transmitted to the DISTRICT.
- d. Make subsequent revisions to drawings specifications, and other DSA approved Construction



Documents that result from the approval of any substitution request, RFI, or submittal. All Revisions shall be prepared in writing and signed by the ARCHITECTURAL DESIGN FIRM. The ARCHITECTURAL DESIGN FIRM shall ensure that all DSA required revisions are submitted to and approved by DSA prior to certification of the PROJECT.

- e. If the lowest bid exceeds the Budget by more than 10% (or if a complete detailed estimate is prepared by a certified professional cost estimator from Construction Documents that are at least 90% completed) for the PROJECT, the ARCHITECTURAL DESIGN FIRM, in consultation with, and at the direction of, the DISTRICT, shall provide such modifications in the Construction Documents as necessary to bring the cost of the PROJECT within its Budget.

## **5) Construction Phase**

The Architectural Design Firm Shall:

- a. Certify, prior to the start of construction, that the following documents have been submitted to DSA:
  - 1. Contract Information Form DSA-102
  - 2. Inspector Qualification Record Form DSA-5 should be submitted 10 days prior to the time of starting construction.
- b. Meet with the Project Inspector, DISTRICT, Contractor, Laboratory of Record and Special Inspectors as needed throughout the completion of the PROJECT to verify, acknowledge and coordinate the testing and special inspection program required by the DSA approved Construction Documents.
- c. Prepare Interim Verified Reports (Form DSA 6-AE), if applicable, and submit such Interim Verified Reports to DSA, the Project Inspector and the DISTRICT prior to the Project Inspector's approval and sign off.
- d. Be responsible for reviewing and confirming, on a monthly basis, that the Contractor is maintaining an up-to-date set of as-built documents which will be furnished to the DISTRICT upon completion. The ARCHITECTURAL DESIGN FIRM shall review the as-built documents prepared by the Contractor on a monthly basis and report whether they appear to be up to date, based upon the ARCHITECTURAL DESIGN FIRM's observations of the PROJECT.
- e. The ARCHITECTURAL DESIGN FIRM shall provide general construction administration of the project including, but not limited to, the following:
  - 1. Visiting the PROJECT site.
    - i. Become familiar with, and to keep DSA and Project Inspector informed about, the progress and quality of the portion of the work completed and for the preparation of the necessary Interim Verified Reports the ARCHITECTURAL DESIGN FIRM
    - ii. The ARCHITECTURAL DESIGN FIRM shall not be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs as these are the responsibilities of the Contractors;

2. Making regular reports as may be required by all governmental agencies or authorities having jurisdiction over the PROJECT;
  3. Review schedules and shop drawings for compliance with design;
  4. Approve substitution of materials, equipment, and the laboratory reports for conformance to construction documents and specifications;
  5. Respond to DSA field trip notes;
  6. Prepare Construction Change Documents for approval by DSA;
  7. Prepare change orders for written approval by the DISTRICT;
  8. Prepare Punch List observations when the PROJECT reaches Substantial Completion;
  9. Determine date of Substantial Completion and the date of final completion of the PROJECT;
  10. Assist with assembling and delivering to the DISTRICT written guarantees, instruction books, diagrams, charts, and as-built documents that will be provided by the Contractor pursuant to the Contract between the DISTRICT and the Contractor;
  11. Issue the ARCHITECTURAL DESIGN FIRM's Certificate of Substantial Completion, Certificate of Completion and final certificate for payment.
- f. Review and approve, or take other appropriate action, upon the Contractor's submittals of shop drawings, product data, and samples for the purpose of checking for conformance with the Construction Documents.
- g. Provide at the ARCHITECTURAL DESIGN FIRM's expense, compile and produce a set of reproducible record drawings showing significant changes in the work made during construction based on the marked-up prints, drawings and other data furnished by the Contractor to the ARCHITECTURAL DESIGN FIRM.
- h. The Architectural Design Firm Shall:
1. Review all requests for information ("RFI"), submittals, and substitution requests that are submitted by the Contractor in connection with the PROJECT;
  2. Determine the data criteria required to evaluate requests for substitutions; and
  3. Be responsible for ensuring that all RFI's, submittals and substitution requests by the Contractor are responded to not later than seven (7) work days, or as soon as the circumstances require.
- i. Be responsible for gathering information and processing forms required by any applicable governing agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, the County Health Department, the local building departments, local fire departments, the OPSC, and DSA, in a timely manner and ensure proper close-out of the PROJECT.

## **6) Project Close- Out**

The Architectural Design Firm Shall:

- a. Within thirty (30) days after the completion of the PROJECT's construction and the ARCHITECTURAL DESIGN FIRM's receipt of as-built documents from the Contractor,

ARCHITECTURAL DESIGN FIRM will review the as-built documents prepared by the Contractor and revise the record drawings and specifications so that they include all material changes made necessary by CCD's, change orders, RFI's, change order requests ("COR's"), Bulletins, clarifications as noted by the Contractor in its as-built documents and/or any other DISTRICT approved document which details the changes that were made to the DSA approved Construction Documents. The ARCHITECTURAL DESIGN FIRM shall incorporate such changes into a complete AutoCAD as-built file, in the original, executable, software format, and PDF files, and provide all such documents, including three (3) hard copies, to the DISTRICT at no additional cost.

b. Upon the completion of all construction, including all Punch List items, the Architectural Design Firm shall assist the DISTRICT in securing the delivery of the following documents to DSA:

1. Copy of the Notice of Completion.
2. Final Verified Report Form DSA-6A/E certifying all work is 100% complete from the ARCHITECTURAL DESIGN FIRM, structural engineer, mechanical engineer, and electrical engineer.
3. Final Verified Report Form DSA-6 certifying all work is 100% complete from the Contractor or Contractors, Project Inspector, and Special Inspector(s).
4. Verified Reports of Testing and Inspections as specified on the approved drawings and specifications, i.e., Final Laboratory Report, Welding, Glued-Laminated Timber, etc.
5. Copies of the signature page of all Addenda as approved by DSA.
6. Copies of the signature pages of all deferred approvals as approved by DSA.
7. Copies of the signature pages of all Revisions as approved by DSA.
8. Copies of the signature page of all applicable Construction Change Documents as approved by DSA.
9. Verification by the Project Inspector that all items noted on any "Field Trip Notes" have been corrected.

### **1) Additional Services**

The District may at its own discretion, retain the services of Architectural Design Services and Specifications for a firm to perform either all or part of these services. The District will not reimburse any firms for any costs involved in the preparation and submission of proposals nor to prepare for and attend interviews. This RFQ does not obligate the District to award a contract or accept or contract for any expressed or implied services. District reserves the right to reject or accept any and all proposals, and to waive informalities and minor irregularities in any proposal reviewed. District reserves the right to request any firm submitting a proposal to clarify its proposal or to supply additional material deemed necessary to assist in the selection of a selected firm, and modify or alter any of the requirements herein. In an attempt to reach an agreed upon contract by both parties, District reserves the right to negotiate with the proposer selected by the committee. If the parties cannot negotiate a RFQ. In the event that the proposal guidelines change materially, all Proposers who submit a proposal will be given an opportunity to modify their proposal in the

specific areas that are impacted. Further, District may reject any proposal which does not conform to the instructions contained within this RFQ.

### **III. Submission Requirements**

The District has scheduled a Mandatory Pre-Qualification meeting on the date indicated in the cover page of this RFQ, to review the submission requirements.

Please respond to the following 7 submission requirements in a straightforward, concise delineation of your capabilities proposed to satisfy the requirement of the RFQ. PCCD will use your responses to objectively determine your capabilities and experience. Please label your responses 1 through 7, in the order presented below. Please limit your total response to (forty) 40 pages (excludes the required attachment forms provided with this RFQ).

#### **Submittal Format:**

Responses may not be longer than a maximum of (forty) 40 pages (one sided or 20 pages double sided), printed on 8 ½" x 11" paper and formatted in no smaller than 11 point font. Each section shall be labeled according to the sections below. All submitted material must only be bound with only **one staple** in the upper left corner. Please no binders or any other type of spiral binding. Submittals must be able to fit into a 9 x 11½ inch folder.

**1. Company Information/Executive Summary:** 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 qualification on the behalf of your firm. Please make sure that person signs and dates the statement.

**2. Demonstration of Meeting the District's Minimum Qualifications:** Provide information that demonstrates your firm's ability to meet the four Minimum Qualifications items listed in the "Scope of Services" section. Make sure to demonstrate your experience with all four minimum qualification of:

- 1) Firm's General Experience
- 2) Firm's Relevant Experience
- 3) Experience with DSA
- 4) Ability to Interface with Local Agencies

**3. Qualifications and Experience (Statement of Qualification):** Provide a statement of qualification and relevant information about your company's knowledge and experience that qualifies your firm to submit a Qualification in response to this RFQ. This District must be able to determine if your firm is qualified to provide the requested architectural services. Include at minimum the following:

- A. Provide a list of all key team members that will be assigned to this project and provide their relevant project experience. If you are partnering with other firms, provide the names of who you are partnering with, and provide their qualifications.
- B. Provide any professional licenses your team holds and your company (and partners) hold that qualifies your firm for this project.

**4. Client References:** Provide names, addresses and contact information for three (3) current clients who can attest to the quality and responsiveness of your firm's services to other Community Colleges, Universities, Public Agencies or Business Organizations. Provide the size and scope of each project and a brief description of the projects. References must be within the last five (5) years.

**5. Debarment:** Provide a statement that your company has not been debarred from providing services to any State or Federal Agency within the last five (5) years. Sign and Date your statement. If your firm has been debarred, you will need to provide background information and reason for the debarment. Provide the name and contact information for the Agency that debarred your firm. The District must review the reason and duration for the debarment before it can determine if your firm can be consider for this project.

**6. 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. Does your product or service promote the District's Environmentally Sustainable Procurement goal? Please use the attached Environmentally Sustainable Procurement form to describe how your product or service directly meets the District's goal. If your product or service does not directly meet the District's goal, then describe what initiatives your firm has taken to become more environmentally sustainable. The District will evaluate each response, and more points will be awarded to firms who products and services directly meet the District's Environmentally Sustainable Procurement goal.

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

## **IV. Evaluation Criteria**

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 evaluating your qualifications, 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:**

<b>Item</b>	<b>Criteria</b>	<b>Points</b>
1	<u>Company Information/Executive Summary and Letter of Interest</u> (and adherence to the 40 page limit and submission of all required forms). As evidence from your response to items 1 and 7 of Submission Requirements section.	25
2	<u>Qualification and Experience and Debarment</u> Vendor's qualification and experience in providing architectural and engineering services as evidence from your response to item 3 of Submission Requirements	45
3	<u>Client References</u> As evidence from your response to item 4 of Submission Requirements section.	15
4	<u>Environmentally Sustainable Procurement</u> Does your product or service meet the District's Environmentally Sustainability initiatives? (Item 6 of Submission Requirements section.)	10
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 (and possibly external members) with expertise in architectural services will initially evaluate and score all submissions according to the evaluation criteria above. Based on these evaluations and reviews, Qualification Lists will be developed for use in future projects. Once a future project is identified, no less than three (3) firms will be invited for an interview and to submit proposals for the project.

### **C. Compensation:**

Following the qualification-based selection process and as projects are identified, fees for services will be negotiated with the most highly qualified firm and determined in accordance with the provisions of the Peralta Community College District Architectural Agreement. Subsequently, if an agreement on fees cannot be reached in a timely manner with the highest qualified firm, the District will seek to reach an agreement with the next best qualified firm, and so on. Should the District not

be able to reach an agreement with any of the top three ranked firms, the District shall select additional firms in order of their competence and qualifications and continue negotiations with the next highest ranked firm.

## **V. Additional Requirements:**

### **A. Cost of Participation in Selection Process**

Costs for developing responses to this RFQ are entirely the responsibility of the firm and shall not be chargeable to the District.

### **B. District Rights:**

The District reserves the right to waive any irregularities or required formalities or to amend or cancel, in part or entirety, this RFQ if it is in the best interest of the District.

### **C. 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 Qualifications or the performance of the contract.

### **D. Public Records:**

Except for materials exempted from disclosure such as Trade Secrets (as defined in California Civil Code 3426.1) that are specifically marked "Confidential" or "Proprietary", all material submitted in response to this RFQ are deemed property of the District and public records upon submission to the District. The District is not liable or responsible for the disclosure of RFQ 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 RFQ Response deemed exempt from disclosure hereunder, by submitting a response to the RFQ, 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.

### **E. Qualification Considerations**

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

### **F. False Statements**

False statements in a Qualification will disqualify the Qualification.

### **G. Legal Proceeding Waiver**

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

### **H. Taxes**

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

### **I. Grade of Service**

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

**J. 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.

**K. 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.

**L. Award Consideration**

Award of contract will be based on the information submitted as a result of this RFQ and subsequent RFPs, and reference checks. The Board will award the contract to the firm select through the competitive process outlined in this RFQ and subsequent RFPs. The Board of Trustees shall not be bound to accept the lowest-quote fee.

**M. Amendments**

The Peralta Community College District may, at its sole discretion, issue amendments to this RFQ at any time before the time set for receipt of Qualifications. The vendor's are required to acknowledge receipt of any amendments (addenda) issued to this RFQ by acknowledging the Addendum in the space provided on the RFQ Acknowledgement and Signature Form. The Peralta Community College District shall not be bound by any representations, whether oral or written, made at a pre-Qualification, pre-contract, or site meeting, unless such representations are incorporated in writing as an amendment to the RFQ 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.

**N. 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.

**O. 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 RFQ, may result in rejection for non-responsiveness. Failure of the vendor to meet or exceed any stated minimums in the RFQ may also result in rejection for reasons of non-responsiveness.

**P. 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.





**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.**

**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.**

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

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

<b>Local Office(s) Address/Telephone</b>  <b>(List all as applicable)</b>	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>  <b>(Please use the Zip+4®)</b> <b>Use separate sheet as necessary</b>	1. 2. 3. 4. 5. 6.
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# Peralta Community College District

## **ENVIRONMENTALLY SUSTAINABLE PROCUREMENT**

**RFQ No.: 18-19/22 ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE**

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: [http://www.peralta.edu/projects/4/Purchasing%20Procedures/BP\\_2\\_40\\_Environmental\\_Sustainability\\_Policy\\_FINAL\\_3-31-08.pdf](http://www.peralta.edu/projects/4/Purchasing%20Procedures/BP_2_40_Environmental_Sustainability_Policy_FINAL_3-31-08.pdf).

### 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

**RFQ No.: 18-19/22 ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE**

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

**RFQ No.: 18-19/22 ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE**

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**

**RFQ No.: 18-19/22 ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE**

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.

<b>Certification Status</b>	<b>Preference</b>	<b>Preference Claimed (check only one)</b>
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.

RFQ Number: \_\_\_\_\_ RFQ Name: \_\_\_\_\_

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Date

\_\_\_\_\_

\_\_\_\_\_

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

\_\_\_\_\_  
Title



**Peralta Community College District**

**NON-COLLUSION AFFIDAVIT**

(To be executed by Vendor and submitted with Qualification)

**RFQ No.: 18-19/22 ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE**

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 qualification that the RFQ is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the qualification is genuine and not collusive or sham; that the firm has not directly or indirectly induced or solicited any other firm to put in a false or sham RFQ, and has not directly or indirectly colluded, conspired, connived, or agreed with any firm or anyone else to put in a sham RFQ, or that anyone shall refrain from submitting a proposal; that the firm has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the price of the RFQ or any other firm, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other firm, 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 RFQ are true; and, further, that the firm has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a 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 tortious 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 contractor's 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 (Errors & Omissions):** In the event any contract specifications requires your firm to provide professional services, such as but not limited to, architectural, engineering, construction management, surveying, design, etc., a certificate of insurance must be provided prior to commencing work evidencing such coverage with a limit of not less than \$1,000,000. Any material change in limits, coverage or loss of aggregate limit due to outstanding claims must be reported to the District within 30 days of any such event

(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.

8. **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.

9. **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.

10. **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.

11. **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.

12. **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.

13. **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.

14. **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.

15. **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.

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

17. **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

### **RFQ ACKNOWLEDGEMENT AND SIGNATURE FORM**

**RFQ No.: 18-19/22 ARCHITECTURAL ENGINEERING SERVICES DISTRICT-WIDE**

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 Vendor's Questionnaire, proposes to enter into a contract with Peralta Community College District to perform the work listed in this RFQ, 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 RFQ: \_\_\_\_\_

#### **Acknowledgement and Signature:**

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

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

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

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

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

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

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

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

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**Decline Qualification:**

We **do not** wish to submit a Qualification 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 FOR SERVICES**

**Updated as of September, 2017**



# Peralta Community College District

## SERVICES AGREEMENT

(Contract No. \_\_\_\_\_)

This SERVICES AGREEMENT ("Agreement") is made and entered into as of this \_\_\_\_ day of \_\_\_\_ 20\_\_ (the "Effective Date") by and between Peralta Community College District ("District") **OR, IF THIS AGREEMENT IS BEING SIGNED BY PCCD ON BEHALF OF A PERALTA COLLEGE, THEN ADD THE FOLLOWING** on behalf of its \_\_\_\_\_ College (the "College"), and \_\_\_\_\_, an individual residing in the State of \_\_\_\_\_ **OR, IF THIS AGREEMENT INVOLVES A CORPORATE VENDOR, DELETE THE PRIOR REFERENCE TO AN INDIVIDUAL AND USE THE FOLLOWING:** a [corporation OR limited liability company [SELECT ONE] formed under the laws of the State of \_\_\_\_\_] ("Vendor"). This Agreement commences on the Effective Date and expires on \_\_\_\_\_, 20\_\_, 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	Scope of Work	1
B	District Vendor Travel and Expense Reimbursement Policy	2

**VENDOR:**

**[USE FOR INDIVIDUAL VENDOR AND DELETE CORPORATE SIGNATURE BLOCK BELOW]**

\_\_\_\_\_, an individual

Print Name

\_\_\_\_\_

*(Signature)*

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

**[USE FOR CORPORATE VENDOR AND DELETE INDIVIDUAL SIGNATURE BLOCK ABOVE]**

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

Title: \_\_\_\_\_

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

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

Address:

Fax:

**PERALTA COMMUNITY COLLEGE DISTRICT**

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

Jowel C. Laguerre, PhD., Chancellor

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



# Peralta Community College District

## EXHIBIT A

### SCOPE OF WORK

#### DESCRIPTION OF SERVICES

##### 1. Introduction

###### 1.1 Background:

- *Provide background information to describe why the SOW is necessary.*
- *Describe the business drivers for the project, the problem or opportunity being addressed.*
- *Describe this project's relationship or dependencies to other projects/initiatives.*

###### 1.2 Purpose:

- *Describe the objectives of the project and why the Vendor's Services and Deliverables are needed.*
- *Describe what will be accomplished by the SOW and how it will address the problem or opportunity defined above.*

##### 2. Definitions (listed in alphabetical order)

**SOW** Scope of Work

- *Define acronyms and capitalized terms used in the SOW that are not otherwise defined under MSA.*

##### 3. Description of Work Performed by Vendor

###### 3.1 Scope of Work and Services to be provided:

Vendor shall, at its own risk and expense, perform the Services identified below,

and, except as otherwise specified, furnish all labor equipment, and materials required. Services shall consist of, but not be limited to the following:

- *Describe the specific Services (activities or tasks) and Deliverables that will be provided by the Vendor.*
- *If Services are to be performed in phases, describe the specific work activities or tasks for each phase.*
- *If applicable, attach a project plan and/or schedule as an Exhibit to the SOW, but remember to properly cross reference such document under this SOW.*
- *Identify any training if required and provide any related details.*

**3.2 Deliverables, Due Date and Acceptance Criteria**

Deliverables for this SOW shall consist of the following:

Deliverable	Due Date	Acceptance Criteria
(example) Detailed Project Plan		The Project Plan shall sufficiently detail all tasks, timelines and dependencies, and define the project goals, principles, and policies.
(example) Communication Plan		The Communication Plan documents who needs to receive information on the project, what type of information is required by these stakeholders, when that information is distributed and how it is delivered.

Deliverables:

- *Describe the Deliverables to be delivered by Vendor. Identify if the Deliverable is a draft or a final report and the appropriate format, (MS Word, MS PowerPoint presentation, Visio, Excel, object code, source code, training material, etc.).*
- *Provide additional detail if the Deliverables need to be compatible with a specific computer operating system environment or with specific versions of other third party software tools (i.e., the most current release).*
- *Describe any Vendor “Pre-Existing Materials” or “Third Party Materials” (defined in the MSA) that will be included with the Deliverables. [Note: The ownership of these materials will not ordinarily pass to Customer. It is*

*important that we know the parts of the Deliverables that may contain these items and what limitations, if any, we have to use them going forward.]*

- *Specify what performance characteristics of the Deliverables, if applicable, are necessary to meet Customer's needs.*
- *Specify if there are any special warranties or guarantees that are required by Customer, other than those specified in the MSA.*

Acceptance Criteria:

- *Define the Acceptance process (when and who will be responsible).*
- *Specify consequences if a Deliverable fails to meet the Acceptance Criteria or the performance criteria (i.e., withhold payment, reject Deliverable, reject all Deliverables, etc.). [Note: these consequences are in addition to (and not in lieu of) the rights of Customer under the Agreement.] A SUGGESTED CLAUSE MAY CONSIST OF SOMETHING ALONG THESE LINES:*

To the extent a portion of any Service or Deliverable does not conform to the Acceptance Criteria set forth herein, as determined by the Customer, Customer shall promptly notify Vendor of such nonconformance and Vendor shall have \_\_\_ days from the date of such notification to re-perform the Service or to cure the nonconformance and to deliver to the Customer a version of the Deliverable and Services that conforms in all material respects to the Acceptance Criteria, to the Customer's satisfaction, at no additional charge or expense to the Customer. At the time of re-performance or re-delivery, the process of acceptance shall again apply *(at no additional charge or expense to the Customer)*, calculated from the date of delivery of the corrected Service or Deliverable. These rights are in addition to (and not in lieu of) the rights of Customer under the Agreement.

Customer shall notify Vendor in writing when "Final Acceptance" of the Services specified under the SOW has occurred. In no event shall Final Acceptance occur until all Deliverables specified in this SOW have been received and accepted by the Customer Project Manager in accordance with this SOW.

### **3.3 Progress Reporting and Communications:**

Vendor shall provide weekly status reports. Both the Vendor and the Customer Project Managers will collaborate to create the weekly status report. The status reports will include, but not be limited to, project status, schedule, budget and risk management issues, etc. The status reports will be due each week as determined at the start of the Services and shall be mutually agreed to by Customer and the Vendor.

### **3.4 Resources to be Provided:**

Vendor shall ensure that its personnel and any approved contractors assigned to perform Services under this SOW ("Personnel") have the necessary qualifications, competence, and experience

required to fulfill their respective responsibilities in providing the Services and Deliverables detailed in this SOW, including the following specific skills and experience:

- *Define the specific resource types (or named individuals) that will be provided by Vendor to support the Services (include Vendor's personnel and any contractors).*

Name	Job Title	Roles/ Responsibilities	Start Date	End Date	Rate Per Hour	Total Hours
					\$	
					\$	

In the event Vendor's Personnel fails to perform in accordance with the requirements stated herein, Vendor shall replace the Personnel at the request of the Customer Project Manager. The Customer Project Manager may request replacement or removal of Vendor resources as needed by providing Vendor a business day written notice. The Customer Project Manager shall approve the replacement of all Personnel prior to assignment to the project. Such approval shall not be unreasonably withheld.

**3.5 Location:**

Services shall be performed primarily at \_\_\_\_\_, with occasional travel to other facilities at the request of the Customer Project Manager.

**4. Vendor Responsibilities**

Vendor shall provide computers with network capabilities and shall provide all Vendor Personnel with the tools needed to produce the Deliverables.

- *Identify what specific materials or methods the Vendor will need to obtain and/or provide in order to provide the Services (i.e., equipment, software, methodologies).*
- *If software programs are to be written by the Vendor, identify if the Vendor will need to include comments in the program code that will be sufficient for a Customer programmer to understand and maintain the program.*

**5. Customer Responsibilities**



- *Insert the following language if Customer will be providing computer equipment:*

Customer will provide workstations and the standard suite of Customer office software required to support the computer environment for the project for Vendor's use while working on Customer's premises.

Vendor acknowledges that Customer may withhold the final payment due under this SOW until all such Customer property has been returned by Vendor.

## 6. Pricing and Payment

*If this is a fixed fee arrangement, include the following:* Vendor shall provide the Services and Deliverables specified in this SOW for a fixed price of \$ \_\_\_\_\_.

*[If it is not a fixed fee agreement, then remove the prior sentence and substitute with the following:]* Vendor shall provide the Services and Deliverables specified in this SOW in an amount not to exceed \$\_\_\_\_\_, calculated on an [hourly] basis at the rate of [\$\_\_\_\_\_].

*[If expenses are reimbursable, please identify the policy and the process for submitting for reimbursement, including any supporting documentation that is required. If no expenses will be paid, add the following:]*

Travel and expense costs are in addition and shall be reimbursed only in accordance with the District's Travel and Expense Policy set forth in the Agreement. The total not-to-exceed amount for travel and expenses is: \$ \_\_\_\_\_, which amount shall not be more than \_\_\_\_ percent of fees to be paid under this SOW.

The total not-to-exceed SOW value of this SOW, including travel and expense costs, is \$ \_\_\_\_\_.

*[If expenses are NOT reimbursable, please remove the above sentences regarding expenses and instead add the following:]*

Customer shall not reimburse Vendor for any costs or expenses, and any such costs and expenses incurred by Vendor in the performance and delivery of the Services and the Deliverables will be the sole responsibility of Vendor.

Vendor will not invoice Customer for any additional fees or expenses that are not specifically identified under this SOW.

*[Choose one of the two following options as applicable depending on whether payment are tied to specific milestones or based on specific payment schedules such as monthly or quarterly, etc. Please update/adjust the table below accordingly:]* Vendor shall submit an invoice [for each Deliverable/milestone payment specified in this SOW after completing the applicable Deliverable/milestone as evidenced by Customer's written (or e-mail) acknowledgement] **OR** [based on the [monthly] payment schedule set forth below during the time that Vendor is providing Services under this SOW]].

<b>[Deliverable/Milestone] OR [Payment Schedule]</b>	<b>Payment Amount (\$)</b>
	\$
	\$
	\$
Reimbursable Expenses:	\$
Total SOW Amount:	\$

Vendor invoices shall be tied to the successful completion of the Services and Deliverables as set forth above and shall include delivery and acceptance approval from the Customer Project Manager.

**7. Management Approach**

**7.1 Deliverable Acceptance Management:**

All Deliverables from Vendor identified in this SOW shall be submitted electronically to the designated Customer Project Manager for approval. Customer approval or revision instructions shall be provided to Vendor within five (5) business days of Deliverable submission. The Customer Project Manager shall determine if the Deliverables meet the Acceptance Criteria identified in this SOW, and such determination shall not be unreasonably withheld or delayed. Customer’s notification of its acceptance shall come from the Customer Project Manager and may be given via e-mail.

**7.2 Risk Management:**

Vendor shall use commercially reasonable efforts to inform the Customer Project Manager of status of the Project, as well as any issues and additional support requirements that arise from time to time. Issues are defined as any outstanding item that has a high probability of occurring (or has occurred) and that may (or has) adversely impacted or inhibited the progress of the project. In the event that the parties cannot agree on how to resolve an issue in a timely manner, the parties shall use the Escalation Process described below:

Escalation Process:

- For any issues that are not initially resolved within five (5) business days by the Customer and Vendor Project Managers, these issues shall be submitted for resolution to the Senior Managers of both parties.

- For any issues that are not resolved within five (5) business days after being submitted for resolution to the respective Senior Managers, these issues shall be submitted for resolution to Vendor's and Customer's next higher level of senior management together with any Vendor or Customer resources that are mutually deemed to be necessary for resolution of the applicable issue.

### **7.3 Change Management:**

Customer, at its sole discretion, may authorize changes to the project scope, Deliverables, schedule, resources and/or cost in accordance with the following provisions:

The Customer Project Manager shall propose a change in the scope;

The Customer Project Manager and the Vendor Project Manager will jointly evaluate and approve any change; and

The parties must execute an amendment to this Agreement reflecting the agreed-to changes.

### **8. Issues and Problem Management:**

The Vendor's weekly status reports shall include a discussion of identified issues and proposed resolutions. All risks and issues will be tracked using an issue log and documented in meeting minutes. The Customer and Vendor Project Managers will work together to resolve all issues.

[Remainder of Page Intentionally Left Blank.]

**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**

**[USE FOR INDIVIDUAL VENDOR AND DELETE CORPORATE SIGNATURE BLOCK BELOW]**

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

(Signature)

\_\_\_\_\_,

an

individual

Title: Chancellor

Print Name

Print Name:

Date:

\_\_\_\_\_

(Signature)

***[IF SOW IS FOR PERALTA COMMUNITY COLLEGE DISTRICT, THEN USE THE SIGNATURE BLOCK ABOVE.]***

**[USE FOR CORPORATE VENDOR AND DELETE INDIVIDUAL SIGNATURE BLOCK ABOVE]**

***[IF SOW IS FOR A COLLEGE, INSERT NAME OF COLLEGE HERE AND INCLUDE SIGNATURE BLOCK BELOW. DISTRICT DOES NOT SIGN UNLESS IT IS A DIRECT CUSTOMER UNDER THIS SOW.]***

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

Title: \_\_\_\_\_

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

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

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

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

Title: College President

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

Address:

*Approved as to Legal Form:*

\_\_\_\_\_

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

Fax:

Address and Contact Person for Notices:

***[INSERT NAME OF CUSTOMER]***

Attn: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Fax: (510) \_\_\_\_ - \_\_\_\_

CC: Director of Purchasing Services

Peralta Community College District

333 East 8<sup>th</sup> Street

Oakland, CA 94606)

**EXHIBIT B**

**DISTRICT TRAVEL AND EXPENSE REIMBURSEMENT POLICY**

**[To Come]**