

**REQUEST FOR PROPOSALS (RFP)**

**FOR THE  
OXNARD UNION HIGH SCHOOL DISTRICT**

**RFP 620**

**Class 1 DSA Inspector of Records for Oxnard Union High School District for  
the New Del Sol High School Construction Project**



**OXNARD UNION HIGH SCHOOL DISTRICT**

**BID Due Date: 2:00 p.m. Wednesday, June 10<sup>TH</sup>, 2020**

Submit Bids to: Oxnard Union High School District 309 South K Street,  
Building G, Purchasing Department, Oxnard, CA 93030

Attention: Deanna Rantz

## MASTER SCHEDULE

A following schedule has been established for conducting this consultant selection process. The DISTRICT reserves the right, however, to modify this schedule at any time.

<u>Task</u>	<u>Dates</u>
Advertisement/ Request for Proposal	05/10/2020 & 5/17/2020
Bidders last Request for Clarification	5/27/2020 at 2:00 p.m.
Bid Due Date	06/10/2020 at 2:00 p.m.
DISTRICT to review and select proposals	06/10/2020 Through 06/15/2020
Board Award	06/24/2020
Execution of Consultant Contract(s)	07/08/2020
Tentative Execution of Work	11/01/2020

# **REQUEST FOR PROPOSALS (RFP) - Class 1 DSA Inspector of Records for Oxnard Union High School District for the New Del Sol High School Construction Project**

## **INTRODUCTION**

Oxnard Union High School District is requesting proposals from interested, qualified and certified Inspectors to provide Inspector of Record services as required by Section 34 of the California Administrative Code, Title 21, Public Works and Department of State Architect for Oxnard Union High School District's New Del Sol High School. The estimated project value exceeds \$150 Million in construction and offsite improvements. The construction period for this project is expected to be approximately 33 months with an anticipated starting date of November, 2020 and completing in August, 2023.

The Inspector shall be subject to DSA approval after acceptance by the Architect, Structural Engineer and District. The DSA field engineer will review the qualifications of the applicant and arrange for a personal interview if necessary. Approval of the Inspector's appointment must be obtained from The Division of the State Architect and a copy of the DSA letter of approval should be in the Inspector's possession before work is started on the project.

### **Proposed Inspector shall include inspection services that have been certified by DSA.**

The minimum recommended qualifications for a project resident Inspector are provided in the State Building code Part 1, Title 24, Section 4-333 of the California code of Regulations. These include but are not limited to the following:

1. Hold rating as Class 1 inspector. CONSULTANT and all CONSULTANT's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services.
2. The Inspector should have had at least five years of experience in construction work of a type similar to that for which they are being proposed, size and dollar value.
3. The Inspector should have a thorough current knowledge of building materials, state codes and construction procedure as a qualified Construction Inspector.

4. The Inspector should have special ability in reading and understanding plans and specifications for all disciplines.
5. The Inspector should have the mental and physical ability to communicate with all parties in a professional manner and to carry out the duties of inspection.

The observation and testing program for this construction period will be coordinated with the Project Manager (BERNARDS) in accordance with the requirements of title 24 of the California Administration Code. Applicants should base their proposals in accordance with the format requirements established in this Request for Proposal. Please address only these specific requirements in preparing your proposals for this project.

## PROJECT SCOPE

### A. GENERAL

The Inspector shall provide services in compliance with all the requirements of title 24 of the California Administration Code.

### B. BUILDING

The scope of the construction consists of the following:

Provide scope description-:

1. Construction for Oxnard Union High School District's New Del Sol High School
2. Construction value estimated range from \$150,000,000.00.
3. Delivery method will be Lease Leaseback. (LLB)
4. Architect: WLC Architects
5. Construction Manager is BERNARDS

### C. FACILITY LOCATION

The project is located throughout the Oxnard Union High School District, review website for (all) locations. Inspection office located at Northeast Corner of Rose Avenue and Del Sol, Oxnard California.

## D. TIME SCHEDULE

Begin inspection services November, 2020 or as noted on "Notice to Proceed" from the District.

## SCOPE OF INSPECTOR'S SERVICES

A. The Inspector's services shall include but not be limited to the following tasks:

1. Provide resident inspection services to insure compliance with code, plans, specifications and quality control required of an educational facility. Issue correction and stop work notices and notify the District and Project Manager in writing if work does not conform to contract document.
2. Inspect and verify that Contractor's As-Built record documents are updated monthly prior to processing of Contractor's monthly payment request.
3. Maintain liaison with the A/E, Project Manager (BERNARDS), Testing Lab, District and other regulatory agencies and governing bodies as necessary to maintain project continuity.
4. Inspector's to coordinate with Project Manager (Bernards) on setting up of specialty inspections and lab testing?
5. Submit, **on a daily basis**, an activity report to the Project Manager (BERNARDS), including the following information:
  - A. Activities performed by the Contractors, and areas where work is performed.
  - B. Manpower assigned to each Contractor and Subcontractor.
  - C. Weather conditions.
  - D. Equipment and materials delivered to the site.
  - E. Construction equipment and vehicles utilized.
  - F. Nature and location of the work being performed (starting and completion dates for various portions of the work).

- G. Verbal instruction and clarifications of the work given to the Contractor, all communications to be confirmed to the entire team in electronic correspondence.
  - H. Inspection by representatives of regulatory agencies.
  - I. Note occurrences or conditions that might affect Contract Sum or Contract Time.
  - J. List visitors to the site associated with DSA, titles, and reasons for visit.
  - K. List telephone calls made or received related to project, and a substantial outline of the nature of such calls, including statements or commitments made during the call. Identify the parties calling.
  - L. Record any work or material in place that does not correspond with the drawings or specifications, as well as resulting action taken. List any other problems or abnormal occurrences that arise during each day, including notations of any particular lack of activity on the part of the Contractor. Note corrective actions taken.
- 5. Inspector shall comply with all federal, state, county and local governmental requirements.
  - 6. Review and monitor Contractor's construction methods and procedures during all construction activities, including earthwork, concrete placement, masonry erection, welding procedures, all finishes, electrical, mechanical, fire alarm, etc.
  - 7. Attend all meetings as required in contract documents and requested by District, i.e., billing meetings, specification review meetings, coordination meetings, weekly progress meetings, pre-roofing meetings, etc.
  - 8. Assist the Project Manager (BERNARDS) and District in scheduling all required tests, and testing laboratory visitations required by the Contract documents. Observe and record dates and times of all test procedures.
  - 9. Inspect, verify, and document Contractor's delivered equipment and materials to insure that they meet submittal and specification requirements. Such inspection **must** occur within 48 hours of Contractor's delivery of equipment to the job site.

10. Submit to the Project Manager (BERNARDS), in a timely manner, a detailed report or request for a clarification whenever any corrective change is necessary in field construction that will result in a variance from the drawings or specifications as originally issued, including Field Change Directives.
11. Review the Contractor's Payment Requests at billing meetings.
12. When the Contractor's work or a designated portion thereof is substantially complete, prepare for the District a list of incomplete or unsatisfactory items via a "punch list" and submit to the Project Manager.
13. Assist the District in the review of Contractor's Submittals.
14. At completion of project, deliver all inspection records and project correspondence to the District.
15. Prior to commencement of work, Inspector will cooperate with the District and Project Manager to develop an **inspection plan** for the construction of the project.
16. Participate in the constructability review of project documents with contracting firm, District, and Project Manager (BERNARDS) representatives.

## OTHER REQUIREMENTS

**B. Facilities and Equipment:** The District will provide desk, chair, internet access, and copy machine access for contract-related work at the project trailer for the duration of the project. The Resident Inspector must provide his/her own vehicle, cell phone, any special equipment, personal computer and any clerical support and other goods, supplies necessary to perform services as required by this Contract.

**C. Inspector Qualification Records:**

Inspector to submit as part of his/her proposal:

1. A copy of DSA certificates for school inspection and any other associated specialty inspection certifications.

2. A list of similar projects in value and complexity the Inspector performed work on within the past 5 years
3. A list of references from architects, construction managers and facility director for agency for the above projects

**D. Fees:**

The fee data should cover the following:

1. Designated DSA Class 1 Rate
2. Hourly Rates Sheet shall include DSA Class 1, 2 & 3 in addition to administrative assistant if required.
3. Weekend and holiday rate if applicable

Other expenses - identify (if none, please state none) The District will not pay:

1. Mileage charges
2. Per Diem charges

**E. Insurance:**

1. The selected Inspector will be required to provide insurance coverage in the amount of \$2,000,000 of Comprehensive General and Auto Liability Insurance with coverage of owned and non-owned vehicles included and Workers' Compensation coverage. This amount of insurance coverage shall be reflected in your base fee.
2. The Inspector shall provide within ten (10) days after the Notice of Award is issued a certificate of liability insurance naming Oxnard Union High School District and its employees, agents, and officers as additionally named insured. The Inspector agrees to provide an endorsement to this policy stating, "Such insurance as is afforded by this policy shall be primary, and any insurance carried by DISTRICT shall be excess and noncontributory." This shall be maintained in full force and effect for the duration of the contract and must be in an amount and format



satisfactory to the District. Insurance coverage shall name the District and Project Management (BERNARDS) as additionally insured for all services provided.

**F. Proposed Submittal and Selection:**

1. All proposals, consisting of one (1) electronic copy and three (3) hard copies must be received by mail, recognized carrier, or hand delivery not later than **2:00 PM, Wednesday, June 10<sup>th</sup>, 2020.**

2. **DELIVERY OF RFP RESPONSES:**

All proposals must be mailed or hand delivered and received by Deanna Rantz for the Oxnard Union High School District 309 South K Street, Building G Purchasing Department Oxnard, CA 93030 on or **before 2:00pm** on (Date) **Wednesday, June 10<sup>th</sup>, 2020.** Proposals received after the stated deadline will not be accepted. Advance submittals are permitted. Hand or courier deliveries shall be delivered to the same addressee LISTED ABOVE –

Questions to be addressed to: Deanna Rantz at [Deanna.Rantz@oxnardunion.org](mailto:Deanna.Rantz@oxnardunion.org) **and** Brittany Villasenor at [Bvillasenor@bernards.com](mailto:Bvillasenor@bernards.com)

3. Costs of preparation of proposals will be borne by the proposer.
4. This request does not constitute an offer of employment or to contract for services.
5. The District reserves the option to reject any or all proposals, wholly or in part, received by reason of this request.
6. The District reserves the option to retain all proposals, whether selected or rejected.
7. All proposals shall remain firm for ninety (90) days following the closing date for receipt of proposals.

8. The District reserves the right to award the contract to the Inspector who presents the proposal which in the judgment of the District, best accomplishes the desired results.
9. Selection will be made on the basis of the proposals as submitted. The Selection Committee may deem it necessary to interview applicants. The District retains the right to interview applicants as part of the selection process.
10. The proceedings of the Selection Committee are confidential. Members of the Selection Committee are not to be contacted by the proposers. All communication between proposer and the District shall be through the District's project manager.
11. The District reserves the right to reject all proposals without cause.

# Exhibit A

## Sample OUHSD Consultant Agreement

Instructions / Face Sheet for

INDEPENDENT CONSULTANT AGREEMENT FOR

PROFESSIONAL/SPECIAL SERVICES (CONSTRUCTION-RELATED)

Contract Number: \_\_\_\_\_

Funding Source: \_\_\_\_\_

Budget Number: \_\_\_\_\_

Site/Department: \_\_\_\_\_

Program Responsibility: \_\_\_\_\_

The District employee that is providing the attached Independent Consultant Agreement for Construction-Related Professional Services should first do the following:

1. Determine which of the following statutory provisions the District is relying on in entering into this contract:
  - If Consultant is furnishing architecture, landscape architecture, engineering, environmental services, land surveying, or construction management, then Government Code section 4529.12 requires the District to procure contract through a fair, competitive selection process (e.g., by obtaining proposals, using a request for proposal or request for qualification process).
  - If Consultant is furnishing special services and advice in financial, economic, accounting, engineering, legal or administrative matters, and those persons are specially trained and experienced and competent to perform the special services required, then Government Code section 53060 authorizes the District to procure contract through direct negotiation.
2. Review the insurance requirements for the District and revise the insurance provisions of the agreement accordingly.
3. Review the forms under section 3 and determine which of those documents should be attached to the agreement.

• Regarding Fingerprinting Certification •

CONSULTANT for this project will have contact with students as indicated below:

- CONSULTANT will have NO contact with students.
- CONSULTANT will have contact with students only in the immediate presence of a District staff member.
- CONSULTANT will have unsupervised contact with students. A consultant certification is attached.

\_\_\_\_\_  
Project Manager's Signature

\_\_\_\_\_  
Date

4. Completely fill in all blanks and delete the unused options in the agreement.
5. Ensure there is an accurate and complete description of the Consultant's Scope of Services.
6. Require the Consultant to complete the following before it begins working under the Agreement:
  - All required certificates and documents, including insurance documents.
  - All information regarding the Consultant located after the signature block.
7. Electronically file PWC-100 form with the Department of Industrial Relations within five (5) days after award of contract, if applicable.

INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL/SPECIAL SERVICES

Sample

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the Oxnard Union High School District, ("District") and \_\_\_\_\_ ("Consultant"), (together, "Parties").

WHEREAS, Government Code section 4526, authorizes the District to contract with and employ any person(s) for the furnishing of architecture, landscape architecture, environmental, engineering, land surveying, and construction project management services on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required; and

WHEREAS, Government Code section 53060, authorizes the District to contract with and employ any person(s) for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District duly determined that it needs some or all of the services (collectively, "Services") to be provided pursuant to this Agreement; and

WHEREAS, the Consultant is specially trained and experienced and competent to perform the \_\_\_\_\_ services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall provide \_\_\_\_\_ services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on \_\_\_\_\_, 20\_\_ and will diligently perform as required and complete performance by \_\_\_\_\_, 20\_\_, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Submittal of Documents.** Consultant shall not commence the Services under this Agreement until Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

  X   Signed Agreement

  X   Workers' Compensation Certification

Sample

X   Fingerprinting/Criminal Background Investigation Certification

  X   Insurance Certificates and Endorsements

  X   W-9 Form

       Other: \_\_\_\_\_

4. **Compensation.** District agrees to pay Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_). District shall pay Consultant according to the following terms and conditions:

4.1. Payment for the Services shall be made for all undisputed amounts based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after Consultant submits an invoice to the District for Services actually completed and after the District's written approval of the Services, or the portion of the Services for which payment is to be made. The schedule of deliverable Services to be produced is as follows:

- 4.1.1. \_\_\_\_\_
- 4.1.2. \_\_\_\_\_
- 4.1.3. \_\_\_\_\_
- 4.1.4. \_\_\_\_\_
- 4.1.5. \_\_\_\_\_

4.2. If Consultant works at more than one site, Consultant shall invoice for each site separately.

4.3. District will withhold 2% of each billing until the Division of the State Architect certification is received for the entire project.

5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except as follows:

5.1. \_\_\_\_\_.

6. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows:



6.1. \_\_\_\_\_.

7. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.

8. **Performance of Services.**

- 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.

- 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
- 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
- 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.

9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulas, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Ownership of Data.** Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Consultant prepared or caused to be prepared pursuant to this Agreement. Consultant retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Consultant prepares or causes to be prepared pursuant to this Agreement.

In the event the District changes or uses any fully or partially completed documents without Consultant's knowledge or participation or both, the District agrees to release Consultant of responsibility for such changes, and shall hold Consultant harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Consultant is found to be liable in a forum of competent jurisdiction. In the event that the District uses any fully or partially completed documents without Consultant's full involvement, the District shall remove all title blocks and other information that might identify Consultant.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
12. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.



**13. Termination.**

13.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by Consultant or no later than three (3) calendar days after the day of mailing, whichever is sooner.

13.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

13.2.1. material violation of this Agreement by Consultant; or

13.2.2. any act by Consultant exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

14. **Indemnification.** To the furthest extent permitted by California law, Consultant shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. Consultant shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, from any and all Claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld. Whereas the cost to defend the Indemnified Parties charged to the Architect shall not exceed the proportionate percentage of Architect's fault as determined by a court of competent jurisdiction, any amounts paid in excess of such established fault will be reimbursed by the District. Notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the design professional shall meet and confer with other parties regarding unpaid defense costs.

**15. Insurance.**

15.1. Consultant shall occur and maintain at all times it performs any portion of the Services. The following insurance with minimum limits equal to the amount indicated below.

Sample

Type of Coverage	Minimum Requirement
<p><b>Commercial General Liability Insurance</b>, including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments</p> <p>Each Occurrence</p> <p>General Aggregate</p>	<p>\$ 1,000,000</p> <p>\$ 2,000,000</p>
<p><b>Automobile Liability Insurance - Any Auto</b></p> <p>Each Occurrence</p> <p>General Aggregate</p>	<p>\$ 1,000,000</p> <p>\$ 2,000,000</p>
<p><b>Professional Liability</b></p>	<p>\$ 1,000,000</p>
<p><b>Workers' Compensation</b></p>	<p>Statutory Limits</p>
<p><b>Employers' Liability</b></p>	<p>\$ 1,000,000</p>

15.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)

15.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s)

not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

15.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.

15.2. **Proof of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

15.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

15.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

15.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.

15.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.

15.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

16. **Assignment.** The obligations of Consultant pursuant to this Agreement shall not be assigned by Consultant.

17. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement are at variance with any such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes

to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District.

- 17.1. **LABOR CODE REQUIREMENTS:** Consultant shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000). Copies of the prevailing rate of per diem wages are on file with the District.
  - 17.1.1. **Registration:** If applicable, before a public works contract can be awarded, Consultant and its subcontractor(s) shall be registered with the Department of Industrial Relations in accordance with Labor Code section 1771.1. At least one week before commencing work, Consultant shall provide to the District the name and DIR registration number for Consultant and any applicable subcontractor.
  - 17.1.2. **Certified Payroll Records:** Consultant and its subcontractor(s) shall keep accurate certified payroll records of workers and shall electronically submit certified payroll records directly to the Department of Industrial Relations weekly or within ten (10) days of any request by the District or the Department of Industrial Relations.
  - 17.1.3. **Labor Compliance:** Consultant shall perform the Services of the Project while complying with all the applicable regulations, including section 16000, et seq., of Title 8 of the California Code of Regulations and is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations.
18. **Certificates/Permits/Licenses/Registration.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.
19. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
20. **Anti-Discrimination.** Consultant herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Consultant and all of its subcontractors. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).
21. **Fingerprinting of Employees.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Although District has determined that fingerprinting is not applicable to this Agreement, Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:
  - 21.1. All site visits shall be arranged through the District;
  - 21.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;
  - 21.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
  - 21.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;

- 21.5. Consultant and Consultant's employees shall not use student restroom facilities; and
- 21.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.
22. **Disabled Veteran Business Enterprises.** Section 17076.11 of the Education Code requires school districts using funds allocated pursuant to the State of California School Facility Program for the construction or modernization of a school building to have a participation goal of at least three percent (3%), per year, of the overall dollar amount expended each year by the school district, for disabled veteran business enterprises ("DVBE"). In accordance therewith, Consultant must submit, upon request by the District, appropriate documentation to the District identifying the steps Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.
23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:
- 24.1. Requesting that District employee(s) evaluate Consultant and Consultant's employees and subcontractors and each of their performance.
- 24.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
25. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
26. **Confidentiality.** Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

27. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

**District:**

Oxnard Union High School District 309 S.  
"K" Street  
Oxnard, CA 93030

Fax: 805-385-2500

Email: \_\_\_\_\_

ATTN: \_\_\_\_\_

**Consultant:**

[NAME] \_\_\_\_\_

\_\_\_\_\_, CA 9\_\_\_\_

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

Email: \_\_\_\_\_

ATTN: \_\_\_\_\_

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

28. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

29. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.

30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
33. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
34. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
35. **Tolling of District's Claims.** Consultant agrees to toll all statutes of limitations for District's assertion of claims against Consultant that arise out of, pertain to, or relate to contractors' or subcontractors' claims against District involving Consultant's services under this Agreement, until the contractors' or subcontractors' claims are finally resolved.
36. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
37. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
38. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authorized and empowered to enter into this Agreement.
39. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
40. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: \_\_\_\_\_, 20\_\_

Dated: \_\_\_\_\_, 20\_\_

**Oxnard Union High School District**

\_\_\_\_\_

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

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

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

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

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

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

**Information regarding Consultant:**

Sample



License No.: \_\_\_\_\_

\_\_\_\_\_  
Employer Identification and/or  
Social Security Number

Registration No.: \_\_\_\_\_

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

\_\_\_\_\_

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

Facsimile: \_\_\_\_\_

E-Mail: \_\_\_\_\_

**NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Consultant to furnish the information requested in this section.**

Type of Business Entity:

\_\_\_\_ Individual

\_\_\_\_ Sole Proprietorship

\_\_\_\_ Partnership

\_\_\_\_ Limited Partnership

\_\_\_\_ Corporation, State: \_\_\_\_\_

\_\_\_\_ Limited Liability Company

\_\_\_\_ Other: \_\_\_\_\_

**EXHIBIT "A"**

**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**

Sample

Consultant's entire Proposal is not made part of this Agreement.

**WORKERS' COMPENSATION CERTIFICATION**

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:

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

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

Name of Consultant: \_\_\_\_\_

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

Print Name and Title: \_\_\_\_\_

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code,

Sample

the above certificate must be signed and filed with the District prior to performing any Services under this Agreement.)

### **FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

One of the three boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Professional Services ("Agreement"):

- Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Education Code § 45125.1 (c))

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

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature: \_\_\_\_\_

- The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that the Consultant has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*
- Consultant's services under this Agreement shall be limited to the construction, reconstruction, rehabilitation, or repair of a school facility and although all Employees will have contact, other than limited contact, with District pupils, pursuant to Education Code section 45125.2 District shall ensure the safety of the pupils by at least one of the following as marked:
  - The installation of a physical barrier at the worksite to limit contact with pupils.
  - Continual supervision and monitoring of all Consultant's on-site employees of Consultant by an employee of Consultant, \_\_\_\_\_, whom the Department of Justice has ascertained has not been convicted of a violent or serious felony.
  - Surveillance of Employees by District personnel.

District Representative's Name and Title: \_\_\_\_\_

Sample

District Representative's Signature: \_\_\_\_\_

I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.

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

Name of Consultant: \_\_\_\_\_

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

Print Name and Title: \_\_\_\_\_