

**LOS ANGELES COMMUNITY COLLEGE DISTRICT**  
 CITY • EAST • HARBOR • MISSION • PIERCE • SOUTHWEST • TRADE-TECHNICAL • VALLEY • WEST  
 ADMINISTRATIVE OFFICES: 770 WILSHIRE BOULEVARD, LOS ANGELES, CALIFORNIA 90017-3856 • 213.891.2000  
 Dr. Francisco Rodriguez, Chancellor



**REQUEST FOR PROPOSALS (RFP) NO. 19-05:  
 WEB REDESIGN SERVICES**

**RFP Schedule**

RFP publication and posting	July 8, 2019
Requests for Clarification deadline:	12:00 pm, July 30, 2019
Pre-Proposal Objections deadline:	12:00 pm, August 5, 2019
Pre-Proposal RFP Addenda issuance deadline:	August 8, 2019
Proposal submission deadline:	2:00 pm, August 16, 2019
Announcement of Short-Listed Proposers:	August 29, 2019
Interviews/Demonstrations:	September 11-12, 2019 (tentative)
Negotiations (optional):	September 16-17 (tentative)
Notice of Intended Award:	September 20, 2019 (tentative)
Submission to Board of Trustees:	October 2, 2019 (tentative)
Award	October 2, 2019 (tentative)

CONTRACTS AND PROCUREMENT UNIT  
 770 Wilshire Boulevard, 6th Floor  
 Los Angeles, CA 90017  
 213.891.2430

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## **I. PURPOSE**

The Los Angeles Community College District ("District" or "LACCD") is seeking to award a contract to a qualified and creative firm to assess the website needs of the District's Education Services Center and nine (9) colleges ("Colleges") and to provide the necessary services, deliverables, oversight, and staff training as specified in this Request for Proposals ("RFP") for and in support of the planning, development, deployment, and maintenance of a highly coordinated and comprehensive redesign of the District's and its Colleges' websites to meet the needs of the District, its Colleges', their staff and the students and public that they serve and to ensure compliance by the District with the readability, navigability, and other accessibility requirements the FHA Section 508/ADA standards as set forth in the current Web Content Accessibility Guidelines ("WCAG") 2.0 AA. This RFP sets forth the details of the District's requirements for the competitive procurement and award ("Award") of an agreement based on the form of agreement attached hereto as RFP Attachment No. 1 – "Website Design and Implementation Agreement," ("Agreement") for performance of the Services. All responses to the RFP shall be submitted in accordance with the terms and conditions of the RFP following a two-package format, one package containing the Proposer's staffing and price proposal ("Staffing and Price Proposal") and a second package containing the Proposer's technical proposal ("Technical Proposal") (collectively "Proposals" and in the singular, "Proposal").

## **II. ABOUT THE DISTRICT**

The District was organized in 1969 and is governed by an elected Board of Trustees and is part of the statewide California Community College system. Members of the Board of Trustees are elected at large to serve four-year terms.

LACCD serves a population of several million residents in southern California within an area of 884 square miles of metropolitan Los Angeles and unincorporated areas of the County of Los Angeles. The District extends from the San Fernando Valley in the north to the Port of Los Angeles area in the south and from the west side of Los Angeles to the San Gabriel Valley on the east.

In keeping with its mission, the District provides comprehensive lower-division general education, occupational education, transfer education, credit and non-credit instructional programs geared to meet the needs of the communities its

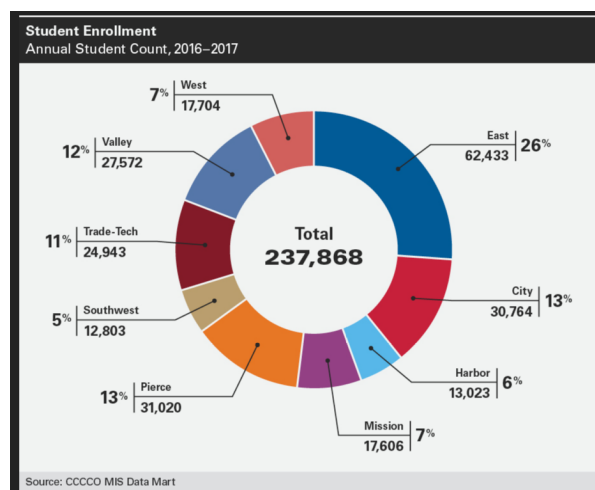
colleges serve and which meet the changing needs of students for academic and occupational preparation, citizenship, and lifelong learning. The Western Association of Schools and Colleges accredits each of the nine Colleges. These colleges include the following:

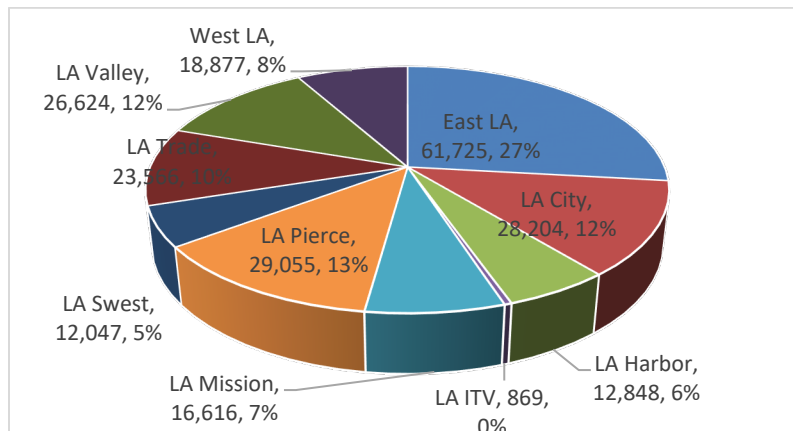
- Los Angeles City College
- East Los Angeles College
- Los Angeles Harbor College
- Los Angeles Mission College
- Los Angeles Pierce College
- Los Angeles Southwest College
- Los Angeles Trade Technical College
- Los Angeles Valley College
- West Los Angeles College

The physical footprint of Colleges ranges in size from 22 acres (Los Angeles Trade Technical College) to over 450 acres (Los Angeles Pierce College). Facilities include newly constructed classroom and instructional laboratory buildings, learning resource centers (libraries with specialized learning/tutoring centers), parking structures, and recreation and athletic facilities, as well as the modernization and renovation of certain other existing facilities.

In **2017-2018**, the District served 230,431 students. Information on the District’s annual FTES is maintained and available in the Allocation Reports, Appendix E – Recalculation Apportionment, which can be viewed at the California Community Colleges website at:

<http://www.laccd.edu/Departments/EPIE/Research/Pages/Enrollment-Trends.aspx>





### III. GENERAL PROVISIONS

#### A. PROPOSER

The Proposer may be an individual or legal entity (e.g., corporation, LLC, LLP, partnership, joint venture, or other legal entity). Individuals who are proposed to perform the Services on behalf of a Proposer shall be either an owner or employee of the Proposer or an owner or employee of a proposed Subconsultant. All information provided in a Proposal in response to a RFP request for information about the “Proposer” (as distinguished from a RFP request for information about a proposed “employee” of the Proposer or a Subconsultant) shall be limited to information about the Proposer and shall not reflect or be based on information (including, without limitation, the experience or financial condition) of any parent company, subsidiary, affiliate, constituent member, or related company of the Proposer; provided, however, that if the Proposer is a “Single Purpose Joint Venture” (as defined in Part VII, H, below), then the “Proposer” shall be understood to mean and refer to the joint venture partner with primary responsibility for managing the business of the joint venture.

#### B. AUTHORITY

The governing statutory authority for this procurement is Education Code §81645. Proposers are advised that pursuant to the terms of Education Code §81645, Award may be made to any one of the three lowest responsible competitive proposals received. As such, Proposers are advised that Award will not necessarily be made to the Proposer with the lowest price, the highest ranking based on qualifications, or the lowest price and highest ranking.

### **C. TERM**

The term of the Agreement ("Term"), unless earlier terminated in accordance with its terms, shall be two (2) years.

### **D. COMPENSATION**

Pursuant to the terms and conditions of the Agreement, RFP Attachment No. 1 – "Website Design and Implementation Agreement" attached hereto, the Proposer to whom an Award is made by the District shall be paid a fee-based compensation (defined in the Agreement as "Basic Services Fees") computed by taking (1) the actual, verifiable time expended by the "Consultant's Personnel" (as defined in the Agreement) in performing the Services and multiplying such time expenditures by (2) the corresponding agreed fixed and fully-burdened hourly billing rates ("Contract Hourly Rates") assigned to such Consultant's Personnel, subject to the further condition that the total sum of Basic Services Fees payable by the District for the full and complete performance of the Services over the entirety of the Term shall not exceed a mutually agreed "Maximum Price" (as defined in the Agreement). In addition to the foregoing, the terms of the Agreement provide for payment of additional compensation, based on the Contract Hourly Rates, for "Additional Services" (as defined in the Agreement) requested by the District in writing, including, without limitation, services that arise from requests by the District for the performance of changes or for performance of services that are outside the scope of the Services.

### **E. SERVICES**

The Services consist of those services that are required to achieve the District's goals, objectives, criteria, and requirements as described in the RFP, as well as any other related services in support thereof that as are reasonably inferable from the descriptions set forth in the RFP, all of which shall remain subject to revision and supplementation by the District, in the exercise of its sole discretion, as part of the RFP process, including disclosing and incorporating (subject to the District's obligations relative to properly marked Proprietary and Confidential Information pursuant to Part X, I, below) all or portions of any detailed descriptions of services and deliverables provided by the Proposers in their Technical Proposals as a means of technically leveling the scope of Services.



## F. RFP PROCESS

The competitive process for evaluation, scoring, and selection of a qualified Proposer for Award of the Agreement shall proceed in accordance with the following processes:

### 1. First Phase (Technical Evaluations)

**(a) RFP Issuance.** The first phase of the RFP process ("First Phase") shall commence with issuance, posting on the internet, and public advertisement by the District of the RFP inviting interested firms to submit Proposals. All interested firms are invited to respond to the RFP. The First Phase shall end upon the District's announcement of the names of the Short-Listed Proposers (as hereinafter described) who will be invited by the District to participate in the Second Phase of the RFP process (i.e., Interviews/Presentations) described below.

**(b) Submission (Two-Package).** Proposers who wish to respond to the RFP shall submit the following two Proposals prepared in accordance with the requirements of the RFP: (1) a Staffing and Price Proposal that includes the Proposer's proposed Contract Hourly Rates for its proposed Consultant's Personnel (as defined in the Agreement), a proposed Maximum Price (as defined in the Agreement), and proposed staffing levels (in the form of projected billable hours for Basic Services Fees over the Term) for the Proposer's proposed Consultant's Personnel and (2) a Technical Proposal that includes all other (i.e., non-pricing and non-staffing level) information as requested in and responsive to the RFP. All information relating to Proposer's pricing, including, without limitation, hourly rates, total price, and proposed staffing levels, shall be included in the Staffing and Price Proposal only and shall not be included or referenced, in any way, by the Proposer in its Technical Proposal.

**(c) Technical Proposals.** Technical Proposals will be evaluated and scored by individual evaluators ("Evaluators") comprising an evaluation panel ("Evaluation Panel") appointed by the District. The Evaluators' evaluations and resultant scoring of Technical Proposals shall be in accordance with the primary evaluative factors and scoring methodologies as hereinafter described in Part XI of this RFP. The results of the Evaluators' scoring of the Technical Proposals will be submitted to an individual designated by District (the "Score Clerk") to tally the Evaluators' scores.

**(d) Staffing and Price Proposals.** Staffing and Price Proposals will be held unopened by the Score Clerk until after completion of the evaluation and scoring of the Technical Proposals. Upon such completion, the Score Clerk will open the Staffing and Price Proposals and following the methodology described in Part XI, A, below, will determine and announce to the Evaluators the names of the Short-Listed Proposers. The Score Clerk's determination of the order of listing of the Short-List Proposers' names in its announcement will be based on a blind selection basis. Staffing and Price Proposals will thereafter be held confidential by the Score Clerk and will not be disclosed to the Evaluators until completion of their evaluations and scoring of the Interviews/Presentations of the Short-Listed Proposers as part of the Second Phase of the RFP process, described below.

## **2. Second Phase (Interviews/Presentations)**

**(a) Interviews/Presentations.** In the second phase of the RFP process ("Second Phase"), the Short-Listed Proposers will give oral and demonstrative presentations before, and respond to questions by, members of the Evaluation Panel ("Interviews/Presentations"). The Interview/Presentation shall be limited to information concerning the Short-Listed Proposer's technical approach, qualifications, and experience. Short-Listed Proposers shall not disclose or discuss proposed Contract Hourly Rates or proposed Maximum Price in the Interviews/Presentations. The Evaluators will evaluate and score each Short-Listed Proposer's Interview/Presentation based solely on the Short-Listed Proposer's performance in its Interview/Presentation and in accordance with the primary evaluative factors and scoring methodologies as hereinafter described in Part XI of this RFP.

**(b) Scoring.** The results of the scoring of the Interviews/Presentations will be submitted to the Score Clerk. The Score Clerk will tally the scores of each Short-Listed Proposer for the Second Phase and add that score to the Short-Listed Proposer's total score for the First Phase in order to arrive at a total aggregate score for both the First and Second Phases.

**(c) Price Proposals.** After the tallying and release by the Score Clerk of the total aggregate scores of the Short-Listed Proposers for the First and Second Phases, the Score Clerk will release the Staffing and Price Proposals of the Short-Listed Proposals to the District representatives responsible for administering the Third Phase of the RFP process, described below.

### **3. Third Phase (Negotiations)**

**(a) Notice of Award or Negotiations.** After evaluation and scoring of the First and Second Phases are complete, the District will either issue a notice of intent to make Award ("Notice of Intended Award") or a notice of intent to negotiate ("Notice of Negotiations"). A Notice of Intended Award will be given if the District elects, in the exercise of its sole and absolute discretion, to recommend to the Board of Trustees that an Award be made based on acceptance of one of the three (3) Short-Listed Proposers' Proposals without further negotiation or discussion with that, or any other, Short-Listed Proposer. Alternatively, the District may elect, in the exercise of its sole and absolute discretion, to issue a Notice of Negotiations and proceed to Negotiations with one or more of the Short-Listed Proposers.

**(b) Negotiations.** The objective of Negotiations is to allow the District to identify one Proposer that be selected for Award from among the Short-Listed Proposers. Based upon the District's combined and overall assessment of the results of the evaluations of the Technical Proposals and Interviews/Presentations of the Short-Listed Proposers and the content of the Staffing and Price Proposals of the Short-Listed Proposers, the District will choose one Proposer from among the Short-Listed Proposers with whom to first conduct Negotiations. Negotiations with other Short-Listed Proposers will only be conducted if the Negotiations with the first-selected Short-Listed Proposer are terminated without a recommendation by the District that an agreement be entered into with that Short-Listed Proposer. If Negotiations with the first-selected Short-Listed Proposer do not produce a recommendation by the District for entering into an agreement, then the District will terminate Negotiations with that Short-Listed Proposer and determine (in similar fashion as aforesated for the first-selected Short-Listed Proposer) the next Short-List Proposer with whom to engage in Negotiations. If the Negotiations with the second-selected Short-Listed Proposer result in a recommendation by the District to enter into an agreement, the District will not conduct Negotiations with the third Short-Listed Proposer. If a recommendation for entering into an agreement is not reached, the District will terminate the Negotiations with the second-selected Short-Listed Proposer and enter into Negotiations with the third Short-Listed Proposer. As part of its Negotiations, the District may receive offers from a Short-Listed Proposer, but is under no obligation to make any counter-offers and may terminate the Negotiations with a Short-List Proposer at any time without making any offers or counter-offers. The District is under no obligation to enter into an Agreement with any Proposer with whom it engages in Negotiations. The District shall be the judge, in the exercise of its sole discretion, of what terms

and conditions shall be acceptable to the District. As part of the Negotiations, the District may, but assumes no obligation to, engage in give and take in regard to any of the terms of the Proposer's Proposal and the Agreement, including, without limitation, staffing, personnel, price, hourly rates, or scope of services. Proposers are advised that under the Negotiations process as described above no Short-Listed Proposer – including the Short-Listed Proposer that receives the highest total aggregate score after completion of the First and Second Phase evaluations – will necessarily be given the opportunity to negotiate with the District. Accordingly, all Proposers are encouraged from the outset to prepare and submit their Technical Proposals and Staffing and Price Proposals to reflect their best offering in terms of qualified personnel, technical approach, staffing levels, and price.

**4. Award.** The District intends to make an Award to the Short-Listed Proposer whose combination of Proposals (Technical Proposal and Staffing and Price Proposal) the District determines, in the exercise of its sole discretion, to be in the best interests of and most advantageous to the District taking into consideration all cost and non-cost factors. Prices, scores received, and ranking of Proposers based on evaluations are intended to inform, but not necessarily control, the District's selection of the Short-Listed Proposer to whom it will make its Award. District further reserves the right to Award to none of the Short-Listed Proposers.

**5. Discussions.** In the exercise of its sole discretion at any point in the RFP process, the District shall have the right, but assumes no obligation, to conduct discussions for the purpose of obtaining information necessary to determine the acceptability of a Proposal or a Proposer's fitness or capacity to perform ("Discussions"). Discussions may occur with all Proposers or fewer than all Proposers without notice to or participation by other Proposers.

**6. Clarifications.** In the exercise of its sole discretion at any point in the RFP process, the District shall have the right, but assumes no obligation, to seek clarifications of certain aspects of a Proposal or to address evident irregularities in a Proposal ("Clarifications"). Clarifications may be sought verbally or in writing with all Proposers or fewer than all Proposers without notice to or participation by other Proposers.

**7. Revised Proposals.** References in the RFP to "Proposal," whether in the singular or plural, shall be interpreted to mean and include not only a Proposal as first submitted, but also any revisions to a Proposal that may be submitted at the request of the District. Unless otherwise requested by RFP Addendum, if Proposal revisions are requested and submitted, the

revisions shall conform to the RFP requirements applicable to the original submission of Proposals. If a question exists about whether a particular requirement of the RFP applicable to the originally-submitted Proposals applies, a request must be submitted seeking clarification prior to submission of a Proposal revision. Proposers shall be bound by the District's determinations in regard to whether any Proposal revision complies with the requirements of the RFP.

**8. Pre-Submission Objections.** Any objection by a Proposer to the prescribed procedures, terms, conditions, or requirements set forth in the RFP or its attachments must be submitted to the District in writing in the same manner as applies to submission of Requests for Clarification. Such objections must be submitted no later than the deadline set forth in the RFP Schedule for submission of pre-submittal objections to the RFP. Failure by a Proposer to so object shall constitute a final and conclusive waiver by the Proposer of its right to thereafter assert such objection for any purpose, including, without limitation, in connection with any protest or disqualification proceeding.

**G. Definitions.** Capitalized terms used on the RFP shall have the meanings assign to them in the RFP or, if not so defined, the meanings assigned in RFP Attachment No. 1 – “Website Design and Implementation Agreement” attached hereto.

#### **IV. CURRENT WEBSITES**

The District seeks to establish an Agreement with one firm that can provide a creative and modern comprehensive redesign of the websites of all nine of the District's colleges (“College(s)”) and the District main website. Currently, District and College websites use a number of different CMS technologies and a combination of platforms, including SharePoint 2010 / 2013, OmniUpdate, Kentico, and WordPress running on Windows servers. Each College has its own individual setup process and site architecture. Future websites will be running on a single platform with a direction to have common navigation across all websites. Generally speaking, the websites lack unity or consistency in design and format, provide challenges to user navigability and searchability, and need further improvements in accessibility to persons with disabilities.

## **V. SCOPE OF SERVICES**

The following general descriptions of the Services to be provided by the Consultant are intended to provide a guideline for Proposers in developing a Technical Approach in their Proposals. The descriptions provided herein are expressed in generality, it being the District's expectation that the Proposers in their Proposals will supplement and expand upon that which is provided below with descriptions of their approach to meeting the District's stated goals and objectives, including complete and detailed enumeration of services and a full list of Deliverables (as defined in the Agreement) that they envision providing as part of the Services. A final scope and description of Services to be incorporated by exhibit into the terms and conditions of the Agreement will be provided by the District to the Short-Listed Proposer recommended for Award, which will integrate the descriptions stated below with the consolidated elements of the detailed services and Deliverables proposed by the Proposers that, in the view of the District, represent overall the most comprehensive and effective approach to delivering the desired Services to the District.

### **A. PHASES**

The scope of Services proposed by the Proposer should include and incorporate the following phases:

- 1.** Assessment and Planning
- 2.** Design and site architecture
- 3.** Development / Conversion
- 4.** Testing
- 5.** Deployment
- 6.** Training

### **B. GOALS**

The Services proposed by the Proposer should meet the following general objectives and goals of the District:

- 1.** Effectively communicate with prospective and current students with the overall goal of increasing student enrollment.
- 2.** Successfully engage alumni and community members in ongoing communications and relationship with the District.

**3.** Increase awareness of the District and each College's mission and programs and instruction available both on and off campus.

**4.** Develop standard consistency amongst format and content among all websites which results in increased user navigability.

**5.** Fulfill all Section 508/ADA compliance requirements throughout all District and College websites to reflect an achievement of WCAG 2.0 Level AA Conformance.

### **C. DELIVERABLES**

Deliverables proposed by Proposers should include, at a minimum, the following (additional deliverables are encouraged as the Proposer determined appropriate to achievement of the District's aforesaid goals):

**1.** Assessment of the District's website needs for all nine District Colleges' and the District's Educational Services Center's websites, incorporating input from relevant user groups (students, faculty, and administrative staff) and including (a) complete site architecture and navigation mapping that is consistent among the Colleges and that is reflective of the District's goals as identified above and (b) based on a review existing web contents, recommendations on improvements based on best practices including the consolidation and deletion of unnecessary and/or out of date content and web elements.

**2.** Written report summarizing the strengths and weaknesses of all current websites and recommend improvements which will support the aforementioned District goals.

**3.** A comprehensive web redesign plan for the District and each of its Colleges, complete with timelines and performance milestones.

**4.** Comprehensive and customized web designs for each of the nine Colleges and for the District's main (i.e., Educational Services Center) website as the umbrella organization for all nine Colleges.

**5.** Create consistent standardized templates for all pages to ensure that pages conform with the District's and Colleges' branding and identity, while allowing for flexibility for departments to create a distinct presence in their own page.

**6.** Incorporate graphics, videos and images into revised web pages to complement content, messaging and branding in conformance with FHA Section 508/ADA WCAG 2.0 AA standards.

**7.** A usability testing plan and perform necessary testing to ensure all websites meet expected goals.

**8.** A training plan and deploy training to identified District employees, including producing training materials that may be District specific.

**9.** Ensure that all web redesigns comply with FHA Section 508/ADA WCAG 2.0 AA standards and all relevant, additional federal, state and local requirements regarding disabled accessibility, including monitoring of websites on a regular basis and taking corrected action as needed.

**10.** Ensure that redesigned website is a complete turn-key system that will become District property.

#### **D. TECHNICAL PLATFORM**

**1.** Provide Cloud hosting on a single tenant with options for each College domain to be controlled semi-autonomously. While initially hosted in the Cloud, sites must also have built-in flexibility to bring in-house if necessary.

**2.** Build on an open source platform, Drupal 8, with compatibility to upgrade to Drupal 9 when released.

**3.** Offer access to website through various mobile device technology, including mobile devices, tablets, smart phones, and all major web applications.

**4.** Provide websites that have a Content Approval Workflow integrated through the CMS system to ensure content is validated and approved by all parties identified prior to publishing. The approval workflow should accommodate proxies.

**5.** Provide recommendations of possible tools to be used for ADA compliance validation and enforcement.



6. Provide testing that includes validation of each site's technical functionality as well as content validation for items migrated from legacy sites.

## **VI. PROPOSER REPRESENTATIONS**

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

- Proposer represents that its Proposal fully complies with the requirements of the RFP.
- Proposer represents that each person who signs a document that is included in a Proposal was at the time of signing, and for the duration of Proposer's participation in the RFP process shall remain, authorized to sign on behalf of and to bind the Proposer.
- If the Proposer is a corporation, limited liability company, or limited partnership, Proposer represents that it is, and for the duration of Proposer's participation in the RFP process shall remain, registered with the Office of the Secretary of State for the State of California and authorized under applicable laws to conduct business in the State of California with a legal status determined by said Office of the Secretary of State of "active and in good standing."
- Proposer represents that it has carefully reviewed RFP Attachment No. 1 – "Website Design and Implementation Agreement," and that the terms and conditions thereof are satisfactory to Proposer and represent in the opinion of the Proposer a fair and reasonable allocation and sharing of risks and responsibilities.
- Proposer represents that it has carefully reviewed all of the documents that comprise or are referenced in the RFP and taken all matters disclosed thereby into consideration in preparing and submitting its Proposals.
- Proposer represents that it is, and if Proposer receives an Award of the Agreement shall be at all times during the performance under the

Agreement, in full compliance with the provisions of the Immigration Reform and Control Act of 1986, as well as any similar provisions of applicable laws setting forth proscriptions or penalties relating to the employment or hiring of undocumented aliens.

- Proposer represents that, at the time of submission of its Proposals, Proposer and each of its proposed Subconsultants possess any licenses that it/they may be required to hold in order to perform the Services that it/they is/are proposed perform under the Proposal.
- Proposer, being familiar with California Government Code §§1090 et seq. and §§87100 et seq., represents that it does not know of any facts occurring in connection with the Proposer's preparation for, or participation in, the herein described RFP process that constitute a violation thereof and has disclosed in its Proposal any possible interests, direct or indirect, which Proposer believes any official, officer, agent, or employee of the District or any of its Colleges, or any department thereof, has that might cause such official, officer, agent, or employee to be "financially interested" (as that term is defined in the afore cited statutes) in any decision made by District in connection with the procurement that is the subject of this RFP. The foregoing is in addition to, and not a limitation upon, any other provisions of the RFP or its attachments that may require disclosure by Proposer of other circumstances that may constitute a personal or organizational conflict of interest.
- In accordance with Public Contract Code §2204 (a), the Proposer certifies and represents that at the time its Proposals are submitted, the Proposer is not identified on a list created pursuant to subdivision (b) of Public Contract Code §2203 as a person (as defined in Public Contract Code §2202(e)) engaging in investment activities in Iran as described in subdivision (a) of Public Contract Code §2202.5, or as a person described in subdivision (b) of Public Contract Code §2202.5, as applicable. Proposers are cautioned that making a false certification and representation may subject the Proposer to civil penalties, termination of an existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code §2205.

Proposer agrees that submission of its Proposals shall constitute Proposer's certification and representation as aforesaid.

## **VII. GENERAL RFP GUIDELINES**

### **A. DISTRICT CONTACT PERSON**

The following person is the sole person with whom Proposers are authorized to communicate concerning the RFP:

Regina Benavides  
Procurement Specialist  
Contracts and Purchasing Unit  
Los Angeles Community College District  
770 Wilshire Blvd., Los Angeles, CA 90017  
Phone: 213-891-2103 | Fax: 213-891-2409  
E-mail: [BENAVIR@EMAIL.LACCD.EDU](mailto:BENAVIR@EMAIL.LACCD.EDU)

### **B. INTERNET ACCESS TO RFP**

All documents comprising the RFP will be available on the internet at:

<https://www.laccd.edu/Departments/BusinessServices/Contract-Services/Pages/Bids-And-Proposals.aspx>

Proposers are responsible for checking the aforementioned website for posting of documents related to the RFP, including any RFP Addenda.

### **C. UNAUTHORIZED COMMUNICATIONS**

Proposers shall not, prior to Award or during the pendency of any administrative proceeding concerning a protest, disqualification, or other matter in dispute related to the subject matter of this RFP, contact or communicate, either verbally or in writing, with any of the following persons in regard to any matter related to the RFP or RFP process: (1) a trustee, officer, employee, or representative of the District (other than the contact person identified in Part VII, A, above); or (2) any attorney, accountant, consultant, or employee of an attorney, accountant, or consultant, providing the District with assistance, advice, or professional services relating to the matters covered by the RFP or who is involved in any aspect of the RFP

evaluation or scoring processes. Unauthorized communication by a Proposer in violation of the foregoing constitutes grounds for disqualification.

#### **D. INTERESTED PARTIES**

Firms that are retained by the District to serve as advisors to the District in respect to the RFP or RFP process shall not submit, or participate in submission of, or assist Proposers in the preparation or submission of, Proposals. Additionally, a Proposer shall not participate in, or be "interested in," more than one submission of Proposals. For purposes of this paragraph, "interested in" means having a managerial or financial interest in another Proposer or a Subconsultant to another Proposer. Notwithstanding the foregoing, a Subconsultant may be proposed as a Subconsultant to more than one Proposer.

#### **E. FALSE INFORMATION**

In addition to and without limitation upon any other requirements of the RFP, the District reserves the right, but assumes no obligation, to disqualify any Proposer and reject any Proposal should District determine that any information submitted by the Proposer is false, incorrect, or materially incomplete and misleading.

#### **F. JOINT OFFERS**

The District intends to contract with either (1) a single firm (which may be an individual doing business as a sole proprietor or a legal entity, such as a corporation, partnership, joint venture, limited liability company, etc.) or (2) a joint venture comprised of two or more firms who join for the singular purpose of competing for an Award pursuant to this RFP ("Single Purpose Joint Venture").

#### **G. DISTRICT INVESTIGATIONS**

At any time during the RFP process and without notice to any Proposer, District shall have the right to conduct investigations into matters related to the accuracy or completeness of the information contained in a Proposal or the qualifications and fitness of a Proposer to perform the Services. The decision to conduct or not conduct such investigations and whether to disclose or not disclose information obtained from any such investigations is a matter within

the sole discretion of the District. Without limitation to the generality of the foregoing, under no circumstances shall the District be under an obligation to (1) conduct any investigation of possible misconduct or (2) take any action upon or give any consideration to allegations of misconduct that are not disclosed in a Proposal, including, without limitation, allegations of misconduct by a Proposer in its performance of a prior or existing contract with the District.

## **H. PUBLIC PARTICIPATION**

All proceedings related to the RFP process that are not required by Applicable Laws to be open to the public shall be closed to the public.

## **I. RESPONSIVENESS**

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

by the District, in the exercise of its sole and absolute discretion, to be unable to perform the Agreement may be disqualified by the District, and if disqualified will not be allowed to participate further in the RFP process.

#### **J. CONFLICTS OF INTEREST**

Proposer, and each of its proposed Subconsultants, shall each separately sign and submit Attachment No. 2 – “Conflict of Interest Certification” attached hereto with its Proposals. In its sole and absolute discretion, the District reserves the right to determine whether any circumstances constitute a conflict of interest that may disqualify the Proposer or any Subconsultant from participating further in the RFP process. Proposers are furthermore responsible to familiarize themselves with the District’s 2017 Code of Conduct Policy and to strictly comply therewith in all aspects of their participation in the RFP process and performance of the Agreement.

#### **K. RFP TIME PERIODS**

If a Proposer is asked in the RFP to respond to a question relative to a stated time period (such as, for example, “within the past 5 years”), it shall be deemed to mean the period of time that precedes the date that the Proposer first submitted its Proposals to the District. If a question asks for information relative to a stated number of prior “full calendar (or fiscal) years,” it shall mean the stated number calendar years immediately preceding the calendar (or fiscal) year in which the Proposals were first submitted by the Proposer. All references in the RFP to “day(s)” shall, unless otherwise stated, mean calendar days

### **VIII. RFP SCHEDULE AND SUBMISSION**

Each Proposer should carefully examine the entire RFP and be fully aware of the nature and quality of the Services sought by the District as well as the conditions in providing such Services.

***PROPOSALS MAY BE REJECTED AS NON-RESPONSIVE IF THE PROPOSER FAILS TO FULLY COMPLY WITH ANY OR ALL OF THE INSTRUCTIONS OR CONDITIONS SET FORTH IN THIS RFP.***

#### **A. RFP SCHEDULE**

The following is the anticipated schedule of events for the RFP process, current as of the date of issuance of the RFP:

## RFP Schedule

RFP publication and posting	July 8, 2019
Requests for Clarification deadline:	12:00 pm, July 30, 2019
Pre-Proposal Objections deadline:	12:00 pm, August 5, 2019
Pre-Proposal RFP Addenda issuance deadline:	August 8, 2019
Proposal submission deadline:	2:00 pm, August 16, 2019
Announcement of Short-Listed Proposers:	August 29, 2019
Interviews/Demonstrations:	September 11-12, 2019 (tentative)
Negotiations (optional):	September 16-17 (tentative)
Notice of Intended Award:	September 20, 2019 (tentative)
Submission to Board of Trustees:	October 2, 2019 (tentative)
Award	October 2, 2019 (tentative)

The District reserves the right, at any time, to make adjustments in the form of additions, modifications or deletions to the RFP Schedule. Such adjustments, if any, shall be made by RFP Addendum. References in the RFP to the RFP Schedule or to a date or deadline in the RFP Schedule shall mean the RFP Schedule as so adjusted.

### **B. PROPOSAL SUBMISSION**

Each Proposer shall submit to the District one (1) printed original (marked "Original") and seven (7) printed copies (each marked "Copy") of each of its Technical Proposal and Staffing and Price Proposal, together with one (1) electronic version of its entire Technical Proposal and a separate electronic version of its entire Staffing and Price Proposal, in both Microsoft Word and PDF format on a USB flash drive or similar storage device other than a CD.

Technical Proposals and Staffing and Price Proposals must be received at the location stated below no later than the deadline for submission of Proposals that is stated in the RFP Schedule, which as of the date of issuance of this RFP is **2:00 pm (Pacific Time) on August 16, 2019**. Technical Proposals (including original, copies, and electronic copy) shall be enclosed in a sealed package conspicuously labeled with the Proposer's legal name and the words "Confidential Technical Proposal Responding to RFP No. 19-05 - Web Redesign Services."

Staffing and Pricing Proposals (including original, copies, and electronic copy) shall be enclosed in a separate sealed package conspicuously labeled with the Proposer's legal name and the words "Confidential Staffing and Pricing Proposal Responding to RFP No. 19-05 - Web Redesign Services." If a packaged Proposal is placed inside delivery packaging, both the inner and outer packaging shall be so labeled.

Proposals shall be submitted to:

Los Angeles Community College District  
770 Wilshire Boulevard  
Contracts and Procurement, 6<sup>th</sup> Floor  
Los Angeles, California 90017  
ATTN: Regina Benavides

Proposals not conforming to the requirements of this RFP may be deemed non-responsive.

Any Proposal received after the time and date above may, at the sole and absolute discretion of the District, be returned unopened or set aside without consideration.

It is the sole responsibility of the Proposer to ensure that its Proposals are delivered on time. If hand delivered, ample time should be scheduled for delays caused by downtown Los Angeles area traffic and parking. **Please be advised that the District does not provide parking accommodations to Proposers submitting Proposals.**

The District shall not be responsible for, nor accept as a valid excuse for late receipt, any delay in mail service or other method of delivery used by the Proposer except where it can be established that the sole cause of late receipt was an unforeseeable action by the District that prevented the Proposer's timely delivery of its Proposals. Notwithstanding the foregoing, in the sole and absolute discretion of the District, any Proposals received from a Proposer after the submission deadline stated in the RFP Schedule may be considered if no other Proposers have submitted Proposals or if all other Proposers submitting Proposals are disqualified.

**Proposals submitted via fax, telephone, or email will not be accepted.**

Proposals constitute firm, irrevocable offers subject to acceptance by the District and may not be withdrawn by the Proposer for a period of **180**



**calendar days** following the deadline for submission of Proposals set forth in the RFP Schedule. Conduct of Negotiations by the District shall not constitute a rejection of the Proposals submitted by a Proposer unless and until such time as the Negotiations with that Proposer are formally terminated by the District in writing and the District has commenced Negotiations with another Proposer.

## **VIX. PROPOSAL AND INTERVIEW/PRESENTATION FORMAT**

Proposers shall follow the format established in this RFP and provide all information requested in the RFP and any RFP Addenda.

### **A. GENERAL**

Each Proposal should provide a straightforward, concise response to the RFP. The Proposers should place emphasis on being in conformance with and responsive to the RFP requirements and on the completeness and clarity of the content of their Proposals.

A Proposer's Proposals and any attachments, documents, letters and materials submitted by the Proposer, may be included as part of any Agreement entered into between the Proposer and District.

Proposers should avoid submitting unnecessary or excessive promotional materials that are not directly and concisely responsive to the requirements of the RFP.

### **B. FORMAT**

All Proposals shall be typed. Paper originals and copies of Proposals shall be double-sided printed on 8 ½ x 11-inch sheets (except that any schedules, organization charts, or staffing plans may be provided on 11 x 17-inch single-sided sheets, in which case each such printed side will be counted as one page). The original, as well as each of the separate paper copies, of the two Proposals submitted (i.e., the separately packaged Technical Proposal and the separately packaged Staffing and Price Proposal) shall each be separately bound in a ring binder or other simple method of fastening. Interlineations, alterations, and erasures contained in a Proposal at the time it is submitted must be initialed by each and all of the signer(s) of the Verification submitted with such Proposal. Print used in all portions of a Proposal, including inserts and footnotes, shall be a font size not smaller than approximately 12 point.

## **C. TECHNICAL PROPOSAL CONTENT**

**Technical Proposals shall include the following items in the order specified below:**

### **1. Cover Page**

A cover page with the Proposer's name, address, and the title "RFP 19-05: Web Redesign Services."

### **2. Transmittal Letter/Introduction**

A transmittal letter ("Transmittal Letter"), no longer than three (3) pages, addressed to Los Angeles Community College District, Contracts Division, 770 Wilshire Blvd., Third Floor, Los Angeles, CA 90017 Attention: Regina Benavidez, Procurement Specialist, which shall include the following information:

- (a)** Identification of the Proposer, including name, address, firm website address (if any), and telephone number;
- (b)** If the Proposer is a corporation, LLC, partnership or other legal entity, the number issued to the Proposer by the Secretary of State for the State of California confirming (i) the Proposer's registration as a legal entity formed under and by the laws of the State of California and/or (ii) if the Proposer is a legal entity formed under the laws a jurisdiction other than the State of California, that the Proposer is authorized to conduct business in the State of California.
- (c)** Name, title, address, telephone number, and email address of a person who will serve as the Proposer's contact person for the duration of the RFP process;
- (d)** A general description of the Proposer's organization and organizational plan for delivering the Services;
- (e)** a brief narrative explaining why the Proposer is best suited to perform the Services for the District;

- (f) the following statement: "We have carefully read and understand all of the provisions of the Request for Proposal and its attachments and agree to be bound by them. We have also carefully read and reviewed the terms and conditions of the form of agreement attached to the RFP, and by submitting this Proposal understand that this is the agreement that we may be expected to execute if we are successful in receiving the award.";
- (g) a statement that the Proposal shall remain irrevocable for a period of one hundred and eighty (180) calendar days from the original due date stated in the RFP for submission of Proposals; and
- (h) a signature of an authorized representative of Proposer accompanied by an affirmative statement that said person is authorized to enter into an agreement with the District and to make any and all binding contractual commitments on behalf of Proposer in respect to all matters relating to the District's Request for Proposal.

### **3. Table of Contents**

A table of contents and exhibits, including references to page numbers.

### **4. Firm Experience and Qualifications**

Describe in detail the Proposer's experience (as a firm) within the past 5 years in working on at least 6, but not more than 10, projects that involved providing services that are similar to the Services described in this RFP, including for each project listed the following: project name, client name, client's business or profession, approximate total compensation received by Proposer for complete performance, approximate dates of performance (start and finish dates only), and current name, address, and telephone number of a contact person for the client who is familiar with Proposer's work on the project. Proposer's response shall not exceed a total of five (5) pages in length (excluding samples of prior-completed website designs or web pages). Although the list of projects provided need not be limited to only community college districts, Proposers are requested to focus their list of projects on those

performed for community college districts and especially community college districts located in the State of California.

## **5. Personnel Experience and Qualifications**

List and summarize the experience and qualifications of the professional (i.e., non-clerical) staff person(s) who are proposed to perform the Services (including persons employed by Proposer or its proposed Subconsultants) and for each such person attach a personal resume describing that person's education, training, work experience, certifications, and other pertinent information, along with an organizational chart showing the positions and lines of authority and reporting. Proposer's response shall not exceed a total of ten (10) pages in length (excluding resumes).

## **6. Technical Approach**

Provide responses to each of the following questions concerning the Proposer's proposed technical approach to performing the Services. Type the question as it appears and in the order shown below (i.e., "TA Question 1: [type question verbatim]") followed by the Proposer's response. Proposer's response (including recitations of the questions) shall not exceed a total of twenty (20) pages in length (excluding examples of websites prepared for other clients).

- (a) TA Question 1:** Provide a high-level but comprehensive description of the Proposer's design and implementation process, including the Proposer's proposed redesign process from start to finish (including, without limitation, primary steps and phases), performance milestones and deliverables, timelines for phases, achievement of performance milestones, and submission, review, and approval of deliverables, and identification of District resources that are needed to complete the Services and to launch the websites.
- (b) TA Question 2:** Describe the Proposer's ability and approach to working and communicating with relevant stakeholders and management of the District and its Colleges in planning and implementing the District's and Colleges' websites in a manner that takes into consideration the likelihood of differences of opinions, prioritization of "wants" and "needs", and the

objective of meeting each College's unique requirements while also providing for achievement of District-wide goals, including, without limitation, appropriate levels of uniformity and a common navigation.

- (c) **TA Question 4:** Provide samples of three (3) to five (5) recently designed and implemented websites with clients or on project similar to the District's proposed web redesign project.
- (d) **TA Question 5:** Describe the Proposer's approach to efficiently and effectively delivering the Services contemplated in this RFP, including in the response how the Proposer's approach would be superior to that of its competitors and how the Proposer's approach reflects an optimum "fit" with the needs of the District.

## **7. ORGANIZATION/CLAIMS HISTORY**

Proposer shall, to the maximum extent allowed by Applicable Laws, provide the following information concerning its organization and claims history. The responses provided will not be scored, but are being requested to assist the District in determining the Proposer's responsibility in terms of whether Proposer possesses the necessary attributes of trustworthiness, fitness, and capacity to perform the Services. Proposer shall include in its response an affirmative statement of "yes" or "no" to each question and if Proposer's answer is "yes" an explanation of the factual circumstances that would be relevant to a District determination of whether or not the Proposer is a responsible bidder (including, without limitation, in the case of a disclosure of a default or finding of non-responsibility, the name, address, email address, and telephone number of a person at the relevant agency that the District may contact who is familiar with the circumstances thereof):

- (a) **Non-Debarment Certification.** Has the Proposer ever been debarred, suspended, or otherwise declared ineligible to contract by any federal, state or local public agency?
- (b) **Significant Business Changes.** Have there been any significant changes in Proposer's business within the past five (5) years, such as, without limitation,

changes in ownership, key personnel, structure, management, or business emphasis?

- (c) **Mergers/Acquisitions.** Has the Proposer undergone or made any mergers or acquisitions within the past 5 years or are any currently planned to occur within the next 24 months?
- (d) **Bankruptcy/Insolvency.** At any time in the past seven (7) years, has the Proposer filed or had filed against it a petition in bankruptcy or taken any actions with respect to the insolvency, reorganization, receivership, or assignment for the benefit of creditors, or otherwise sought relief from creditors?
- (e) **Defaults.** Has the Proposer ever been terminated for default under a contract awarded by a local, state, or federal agency?
- (f) **Non-Responsibility.** Has the Proposer ever been determined to be non-responsible by a local, state, or federal agency?
- (g) **Bid Rigging.** Has the Proposer or any of its officers, directors, or managers ever been criminally convicted of violation of a state or federal antitrust law involving bid rigging, collusion, or restriction on competition between bidders, or conviction of violating any other federal or state law relating to bidding or contract performance?
- (h) **Felonies.** Has any officer, director, or manager of the Proposer been convicted of a felony within the past 7 years (except for felonies involving possession of marijuana)?

Without limitation to the District's right to determine a Proposer responsible on any other grounds, the existence of or a failure by Proposer to disclose any of circumstances described above in this Part IX, C, 7 shall constitute grounds, exercised or not exercised in sole and absolute discretion of the District, to find the Proposer not responsible and to disqualify the Proposer.

## **D. STAFFING AND PRICE PROPOSAL CONTENT**

**(1) Consultant's Personnel.** Proposers shall list, in a staffing plan that conforms to Attachment No. 3 – "Staffing Plan Format", by job title/position each and all of Proposer's proposed Consultant's Personnel (as defined in the Agreement and whether employed by Proposer or a Subconsultant) who Proposer proposes to perform the Services. The listing of Consultant's Personnel shall only include job titles/positions for which the Proposer proposes to charge Basic Services Fees to the District. Any personnel not listed shall be deemed part of the Proposer's overhead costs that are included in its Contract Hourly Rates for Consultant's Personnel and shall not be chargeable to the District.

**(2) Contract Hourly Rates.** Proposers shall list, in a staffing plan that conforms to Attachment No. 3 – "Staffing Plan Format", proposed Contract Hourly Rates for each of job title/position comprising the Proposer's list of Consultant's Personnel as described in the preceding paragraph (1). A single Contract Hourly Rate shall be proposed for each job title/position. Proposed Contract Hourly Rates shall remain fixed at the same dollar amount over and for the duration of the Term and shall not be escalated or subject to escalation for any reason. Contract Hourly Rates shall be fully burdened, "all in" rates that cover all of the Proposer's direct and indirect overhead and profit, including, without limitation, all travel (mileage or otherwise) and subsistence expenses. Basic Services Fees are the sole and exclusive compensation payable for the Services and there shall be no additional reimbursement by the District for out-of-pocket or other expenses of the Proposer or any Subconsultant.

**(3) Estimated Staffing Levels/Fees.** Proposers shall list, in a staffing plan that conforms to Attachment No. 3 – "Staffing Plan Format", the following: (a) for each job title/position comprising the Proposer's proposed list of Consultant's Personnel, the Proposer's projection of the number of hours of Services that it estimates will be performed and billed to District as Basic Services Fees for full performance of the Services over the entirety of the Term and (b) based on an extension of those hours at the Contract Hourly Rates proposed by Proposer, a calculation of projected Basic Services Fees for each such job title/position over the entirety of the Term.

**(4) Maximum Price.** Proposers shall state, in a staffing plan that conforms to Attachment No. 3 – "Staffing Plan Format", a proposed Maximum Price (as defined in the Agreement) that is equal to the aggregate sum total of Basic Service Fees that are projected by Proposer over the

entirety of the Term of the Agreement. The Maximum Price shall be a direct, computational extension of the hours and rates proposed by the Proposer in its staffing plan for all of its proposed Consultant's Personnel. In the interests of avoiding a misunderstanding as to the Proposer's proposed Maximum Price, the Proposer shall write its proposed Maximum Price as a single dollar amount, bolded and underlined as follows: "**Proposer's Maximum Price: \$\_\_\_\_\_**". The Proposer's Maximum Price is the maximum amount of Basic Services Fees that may be charged by Proposer and that shall be payable by the District to Proposer for time expended by any and all of Proposer's proposed Consultant's Personnel in the complete performance of the Services. Pursuant to the terms of the Agreement, all billings for Basic Services Fees shall be based on actual hours of Services performed by Consultant's Personnel multiplied times the corresponding agreed Contract Hourly Rates. In the event the Services are fully performed and completed for a total amount of Basic Services Fees over the entirety of the Term that is less than the Maximum Price, the resulting difference, or savings, shall accrue 100% to the District. Proposers shall not include in their Proposals any qualifications, exceptions, exclusions, or conditions to the proposed Maximum Price, it being the intent of the District (subject to revision, at District's sole discretion, as part of the Negotiations) that, with the sole exception of Additional Services authorized under the terms of the Agreement, Proposer shall not be entitled to any additional compensation for time expended by Consultant's Personnel in performing and completing the Services that exceeds the agreed Maximum Price.

#### **E. PROPOSAL ATTACHMENTS/EXHIBITS**

Proposer shall submit the following attachments/exhibits with its Proposals using the District forms attached to this RFP:

**(1) Technical Proposals.** Each Technical Proposal shall include, without limitation to any of the other documents required by the terms of the RFP, the following:

- (a)** a completed and signed **Noncollusion Declaration** signed by Proposer in the form attached hereto as RFP Attachment No. 4 – "Noncollusion Declaration";
- (b)** a completed and signed **Certificate of Non-Discrimination** signed by Proposer in the form attached hereto as RFP Attachment No. 5 – "Certificate of Non-Discrimination";



- (c) completed and signed **Conflict of Interest Certifications** (signed by Proposer and and separately signed by each of its proposed Subconsultants) in the form attached hereto as Attachment No. 2 – “Conflict of Interest Certification”;
- (d) completed and signed **Confidentiality Agreements**, signed by Proposer and separately signed by each of its proposed Subconsultants, in the form attached hereto as RFP Attachment No. 6 – “Confidentiality Agreement”;
- (e) a completed and signed **Acknowledgement of RFP Addenda** signed by Proposer in the form attached hereto as Attachment No. 7 – “Acknowledgment of RFP Addenda”;
- (f) a completed and signed **Authorization to Release Information** signed by Proposer in the form attached hereto as Attachment No. 8 – “Authorization to Release Information”; and
- (g) a completed and signed **Verification** signed by Proposer in the form attached hereto as Attachment No.9 – “Verification”.

**(2) Staffing and Price Proposals.** Each Staffing and Price Proposal shall include, without limitation to any of the other documents required by the terms of the RFP, the following:

- (a) a completed and signed **Noncollusion Declaration** signed by Proposer in the form attached hereto as RFP Attachment No. 4 – “Noncollusion Declaration”;
- (b) a completed and signed **Certificate of Non-Discrimination** signed by Proposer in the form attached hereto as RFP Attachment No. 5 – “Certificate of Non-Discrimination”;
- (c) completed and signed **Conflict of Interest Certifications** (signed by Proposer and separately

signed by each of its proposed Subconsultants) in the form attached hereto as Attachment No. 2 – “Conflict of Interest Certification”;

- (e) completed and signed **Confidentiality Agreements**, signed by Proposer and separately signed by each of its proposed Subconsultants, in the form attached hereto as RFP Attachment No. 6 – “Confidentiality Agreement”;
- (f) a completed and signed **Acknowledgement of RFP Addenda** signed by Proposer in the form attached hereto as Attachment No. 7 – “Acknowledgment of RFP Addenda”; and
- (g) a completed and signed **Verification** signed by Proposer in the form attached hereto as Attachment No.9 – “Verification”.

In the event that a Proposer fails to submit, or if the District has knowledge that a Proposer has made an error in the completion or execution of, any of the documents listed in this Part VIX, E, then the District will have the right and option in its sole discretion, but shall have no obligation, to allow the Proposer an additional three (3) business days to submit a new and conforming document. Submission of a new and conforming document shall not, however, preclude any Evaluator from negatively scoring the Proposer by reason of the Proposer’s initial noncompliance.

## **F. INTERVIEWS/PRESENTATIONS**

**1. Short-Listed Proposers.** Only the Short-Listed Proposers will be invited to participate in Interviews/Presentations.

**2. Participants.** No person, other than a person proposed to serve as a member of Proposer’s proposed Consultant’s Personnel performing or directly managing the performance of Services, shall attend the Interview/Presentation on behalf of a Proposer. All persons attending on behalf of the Proposer shall speak during the Interview/Presentation. The total number of persons attending on behalf of the Proposer shall not exceed four (4).

**3. Schedule.** Any changes in the schedule of Interviews/Presentations from that set forth in the RFP Schedule will be announced by RFP Addendum.

**4. Visual Aids.** Visual aids are permitted and encouraged at Interviews/Presentations. If visual aids are used, Proposer shall furnish each member of the Evaluation Panel with one printed copy and one electronic copy. The Proposer is responsible for providing all software, hardware, screens, projectors, easels, and any and all other necessary tools, equipment, or services necessary for its presentation.

**5. Evaluators.** In advance of the Interviews/Presentations and by means of an RFP Addendum, Proposers will be informed of the number of persons who will be present on behalf of the District.

**6. Questions.** At the District's option, exercised in its sole discretion, Proposers may be provided with scripted questions to respond to as part of their Interviews/Presentations. If so, scoring will be based primarily, but not exclusively, on the responses to scripted questions. If utilized, the scripted questions will be distributed to the Proposers by means of RFP Addendum prior to the Interviews/Presentations.

**7. Timing.** The first twenty (20) minutes of a Short-Listed Proposer's Interview/Presentation will be devoted to its presentation. Presentations will be followed by a period of questions and answers that may vary depending on the nature of the follow-up questions and the length of the answers. Each Proposer will be given ten (10) minutes to make a closing statement. The total time allotted for a Presentation/Interview will be approximately forty-five (45) minutes.

**8. Clarifications.** The District may seek clarifications of a Proposer's Technical Proposal at any time during the conduct of the Interviews/Presentations, whether or not the subject matter of the clarification is addressed by the Proposer in its Interview/Presentation.

## **X. MISCELLANEOUS PROVISIONS**

### **A. APPLICABLE LAWS**

All Proposals must be submitted, filed, made, and executed in accordance with Applicable Laws, whether or not such Applicable Laws are expressly referred to in the RFP.

## **B. MANDATORY REQUIREMENTS**

The Proposer is solely responsible to provide all required information including, but not limited to, certification, references, organization information, and other information and documents as necessary to ensure Proposer's compliance with the requirements of the RFP and is responsible for the accuracy and completeness of such information and documents. Forms included with the RFP shall, as applicable, be used by Proposers in the preparation of their Proposals. Information provided by Proposers on other forms in lieu of the forms provided in the RFP may be disregarded by the District.

## **C. AUTHORIZED SIGNATURES**

Any documents required by the terms of the RFP to be signed by Proposer must all be signed by an authorized signatory on behalf of Proposer and the original of such signed document included and submitted with the Proposer's Proposals.

## **D. LICENSING**

Each Proposer is required to possess at the time of submitting its Proposal and at all times during the RFP process (and in the case of the Proposer that receives Award, at the time of Award, upon execution of the Agreement, and at all times during performance of the Agreement) any and all licenses required by Applicable Laws for the performance of the Agreement.

## **E. RFP REVIEW**

Each Proposer in submitting its Proposals acknowledges and understands its affirmative obligation to carefully and thoroughly examine the RFP, including, without limitation, the scope of the Services. Failure by a Proposer to fully inform itself of the content of the RFP and to seek clarification in the manner required by the RFP shall neither relieve the Proposer from its responsibilities under the RFP or Agreement nor serve as the basis for any claim by the Proposer that it was mistaken or misled in connection with the preparation of its Proposal. Proposers are solely responsible to satisfy themselves as to the suitability of any estimates, projections, budgets, concepts, technical criteria, reports, surveys, data, and other information provided by the District and nothing contained in the RFP, or in any other information provided by the District, shall be construed as implying the creation or existence of any warranty, express or implied, on the part of the District with respect to the

completeness, accuracy, or sufficiency thereof. Without limitation to the generality of the foregoing, statements, estimates, and other information contained in the RFP indicating the quantity of services that that Proposers may be expected or will be required to provide under the Agreement may be greater or lesser than the services actually required.

## **F. REQUESTS FOR CLARIFICATION**

Questions or other requests for clarifications of the RFP ("Requests for Clarifications") shall be submitted by email between the hours of 8:00 a.m. and 4:00 p.m. to: **Regina Benavides** at e-mail: [BENAVIR@EMAIL.LACCD.EDU](mailto:BENAVIR@EMAIL.LACCD.EDU). Each Request for Clarification shall state in the reference line of the e-mail the following: "Request for Clarification – RFP No. 19-05 Web Redesign Services."

Requests for Clarification must be received by the District on or before the deadline for submission of Requests for Clarification as set forth in the RFP Schedule.

Written responses to Requests for Clarification will be issued by RFP Addendum and will be posted on the following website address:

<http://www.laccd.edu/Departments/BusinessServices/Contract-Services/Pages/Bids-And-Proposals.aspx>

The District is not obligated to respond to any Requests for Clarification that the District judges, in the exercise of its sole discretion: (1) are received after the deadline specified in the RFP Schedule; (2) are submitted in a manner other than as required by the RFP; (3) are unintelligible; (4) are redundant to other questions responded to by District in an RFP Addendum; (5) seek information that is irrelevant to the subject matter of the RFP; (6) seek information that is already contained in the RFP; or (7) involve weaknesses, errors, or omissions in a Proposal, whether observed or not observed by the District, it being the intent of the District that all such weaknesses, errors, or omissions, whether observed or not observed, are the sole responsibility of the Proposer. Information contained in a response to a Request for Clarification that is deemed by the District, in the exercise of its sole discretion, as being material to the RFP process will be set forth in an RFP Addendum and issued to the Proposer in accordance with the procedures set forth herein for issuance of RFP Addenda.

## **G. RFP ADDENDA**

The District reserves the right, at any time (before or after submission of Proposals), in the exercise of its sole and absolute discretion, to change (by additions, deletions, or modifications), and issue clarifications or interpretations affecting, the RFP or RFP process. Such changes, clarifications, interpretations, of additional information shall be communicated to the Proposers by a written addendum to this RFP ("RFP Addendum"), which will be posted at the following website address:

<http://www.laccd.edu/Departments/BusinessServices/Contract-Services/Pages/Bids-And-Proposals.aspx>.

Changes, clarifications, interpretations, or additional information communicated in any other manner than by RFP Addendum shall not be relied upon by Proposers and will not be binding upon the District. All RFP Addenda issued by the District shall become part of the RFP. All Proposals shall comply with and be responsive to all RFP Addenda issued prior to the applicable deadline in the RFP Schedule for submitting Proposals.

Failure of a Proposer to receive an RFP Addendum shall not: (1) relieve the Proposer from any obligation to comply with the requirements thereof; (2) relieve the Proposer from any obligation or conditions set forth in its Proposal; (3) entitle the Proposer to an extension of the RFP Schedule; and (4) be considered as grounds for permitting the Proposer to modify its Proposal in a manner not expressly authorized by the RFP.

Using the form provided by the District in RFP Attachment No. 7 - "Acknowledgement of RFP Addenda" attached hereto, Proposer shall acknowledge, in writing, in its both its Technical Proposal and its Staffing and Price Proposal receipt of all RFP Addenda. Failure of a Proposer to so acknowledge in its Proposals receipt of all RFP Addenda received may be asserted by the District as a basis for determining a Proposal non-responsive.

Nothing stated in this Part X, G, and (unless expressly stated otherwise in the RFP) nothing stated elsewhere in the RFP, shall be interpreted as obligating the District to issue an RFP Addendum informing the Proposers of any change to, or to clarifying any portion of, the RFP or RFP process if the District judges, in the exercise of its sole and absolute discretion, that such change or clarification is immaterial.

## **H. WITHDRAWAL/REVISION OF PROPOSAL**

A Proposer may withdraw its Proposal at any time prior to the Proposal submittal deadline set forth in the RFP Schedule by sending the District a request in writing from the same person who signed the submitted Proposal. Subject to Proposer's right to withdraw and resubmit as aforesaid, once a Proposal is submitted it may not be thereafter withdrawn or amended by the Proposer except as permitted by District in the exercise of its sole discretion.

## **I. CONFIDENTIAL INFORMATION**

In accordance with the California Public Records Act (California Government Code §§ 6250 *et seq.*), Proposals and related documents submitted pursuant to this Request for Proposal will be subject to disclosure and review by the public upon request. Except as otherwise required by Applicable Laws, the District will not disclose to any person, other than those acting on behalf of or as advisors to the District in the administration of the RFP process, any information constituting trade secrets or proprietary information submitted by a Proposer provided that the Proposer has specifically and conspicuously marked such information as "PROPRIETARY AND CONFIDENTIAL INFORMATION" in all capital letters at each location in its Proposals where such information appears. A blanket statement that all contents of the proposal are confidential or proprietary will not be honored by the District. Failure to include the marking required by this Part X, I, will be deemed a waiver of any exemption from disclosure under the California Public Records Act. The Proposer's marking of information as proprietary and confidential is a matter of convenience to assist the District in identifying such information as to which a claim of confidentiality is being made and does not automatically confer or create a presumption that such information is in fact proprietary or confidential or that it constitutes an exclusion from disclosure under the California Public Records Act. The District reserves the right to independently determine whether any such information is or is not subject to disclosure and if the District determines that the information may be disclosed it may make such information available for review to the public to the extent required by Applicable Laws. In addition to the foregoing, by submitting a Proposal to the District in response to this RFP, Proposer agrees to defend, indemnify, and hold harmless the Los Angeles Community College District, its Board of Trustees, Colleges, and officers, employees and agents, and each of them from any and all losses, liabilities, claims, and damages arising out of a refusal by the District to disclose confidential or proprietary information.

## **J. PROPOSER EXPENSES**

Any expenses incurred by a Proposer to (1) prepare its Proposals in response to this RFP, (2) submit its Proposals to the District; (3) negotiate with the District; or (4) engage in any other activity related to the RFP prior to the effective date of Award, shall be borne and paid for solely by the Proposer, shall not be included by the Proposer as a condition or part of its Proposal, and shall not, under any circumstance, constitute a liability or responsibility of the District. In addition to the foregoing, by submitting a Proposal to the District in response to this RFP, Proposer agrees to defend, indemnify, and hold harmless the Los Angeles Community College District, its Board of Trustees, Colleges, and officers, employees and agents, and each of them from any and all losses, liabilities, claims, and damages asserted by third persons or entities engaged by or through Proposer or its Subconsultants in connection with its/their responding to this RFP or preparing for or participating in the RFP process.

## **K. SUBCONSULTANTS**

Proposers are permitted to provide for a portion of the Services to be performed by one or more consultants or contractors retained by the Proposer ("Subconsultant") provided that each Subconsultant proposed to be used is identified in the Proposer's Technical Proposal by name, contact person, telephone number, fax number, e-mail address, and a description of the portion of Services to be performed by the Subconsultant. Where a request is made in the RFP for submission of information about or by the "Proposer," unless the request expressly mentions that it applies to Subconsultants, it shall mean the Proposer alone and not its Subconsultants.

## **L. IRREGULARITIES**

District reserves the right with or without notice to Proposers and at any time during or after the RFP process to waive deviations, irregularities, errors, or omissions in a Proposer's Proposal or in connection with the Proposer's participation or conduct in the RFP process. Under no circumstances is the District under an obligation to waive any irregularities, whether minor or material. No failure by the District to waive an irregularity shall be interpreted as limiting the District's right at any later point, including, without limitation, after Award, to either waive such irregularity or assert such irregularity as a ground for disqualification of a Proposer or rejection of a Proposal. Under no circumstances shall a Proposer be entitled to assert the existence of an irregularity in the Proposal or conduct of another Proposer as a ground for



protest of an Award or as a ground for disqualification of such other Proposer if the same, or substantially the same, irregularity has been committed by the protesting Proposer.

#### **M. ORAL COMMUNICATIONS**

Any oral communication between a Proposer and any person acting on behalf of the District (including, without limitation, oral communications with or by the contact person identified in Part VII, A, above) is not binding on the District and shall in no way modify the RFP or the rights or obligations of the District or Proposer.

#### **N. PROPOSED AGREEMENT**

The Proposer to whom an Award is made shall be required to enter into a written agreement with the District. A sample of the Agreement that the Proposer may be required to execute is attached hereto as RFP Attachment No. 1 – “Website Design and Implementation Agreement”. The District reserves the right, exercised in its sole and absolute discretion, but assumes no obligation, to modify the terms of the Agreement at any time up to the Award. Additionally, the District and a Proposer may agree to modifications of the Agreement as part of the Negotiations with a Proposer, regardless of whether said modifications are offered to any other Proposer, and the District is under no obligation to offer such negotiated modifications to any other Proposer. Although the District is under no obligation to offer or accept modifications, if a Proposer wishes the District to consider a modification of the Agreement, it may do so by means of submission of a timely Request for Clarification prior to submission of its Proposals, in which case the District will respond to such request by RFP Addendum. Any proposed exceptions, objections, qualifications, or modifications to the Agreement that are included in a Proposal and that are not approved by District in an RFP Addendum may be disregarded by the District, shall not be binding upon the District, and shall not limit the District’s right, should it choose to do so, to accept the Proposal on all conditions stated in the Proposal exclusive of such unauthorized exceptions, objections, qualifications, or modifications. By responding to this RFP, Proposers warrant that they have taken any and all costs and/or risk and liability associated with the Agreement into account in their Staffing and Price Proposals. In the event of an irreconcilable conflict between the terms of the RFP and any term or condition in the Agreement (1) the former shall govern for purposes of the RFP process and (2) the latter shall govern the terms of the executed Agreement between the District and the Proposer receiving the Award.

**O. INDEMNIFICATION**

**THE PROPOSER TO WHOM AWARD IS MADE BY THE DISTRICT SHALL BE REQUIRED TO ASSUME THE DEFENSE AND INDEMNIFICATION OBLIGATIONS THAT ARE SET FORTH IN RFP ATTACHMENT NO. 1 – “WEBSITE DESIGN AND IMPLEMENTATION AGREEMENT.”**

**P. NO COMMITMENT TO AWARD**

Issuance of this RFP and receipt of Proposals does not commit the District to Award an Agreement. Without limitation to any of the District’s other rights under the RFP or Applicable Laws, the District expressly reserves the right to postpone any part of the RFP process for its own convenience, to accept or reject any or all Proposals received in response to this RFP, make a determination that Proposer is disqualified from participating in the RFP process due to its being found not responsible or unable to perform the Services contemplated by the RFP, or to cancel all or any part of this RFP with or without offering any Proposer the opportunity to participate in any future RFP process for the same or similar services.

**Q. NOT BINDING ON DISTRICT UNTIL SIGNED**

Nothing stated in this RFP and no action taken in response to this RFP, save and except for mutual execution of the Agreement following approval of execution of the Agreement by the Board of Trustees, shall constitute or be interpreted as creating any legal obligation on the part of the District to any Proposer and exercise by District of any its rights under any provision of the RFP shall not, under any circumstances, give rise to any liability or obligation on the part of District to any Proposer or third party nor shall it constitute grounds for any claim by a Proposer for recovery from District of any loss, damage, cost, or expense.

**R. NEWS RELEASES**

News releases pertaining to any award resulting from this RFP may not be made without the prior written approval of the District, which consent may be granted or denied in the sole and absolute discretion of the District.

## **S. EMPLOYEE INFORMATION**

By submitting a Proposal in response to this RFP, the Proposer agrees not to use the names, office phone numbers, email addresses, and/or addresses of District employees for any purpose not directly related to this RFP.

## **T. PERFORMANCE EVALUATION**

Contractors and consultants retained by the District are subject to having their performance periodically evaluated.

## **U. NON-TRANSFERABLE**

Proposals are neither assignable nor transferable by Proposer, and any such attempted assignment or transfer shall be deemed null and void at and from its inception.

## **V. EVIDENCE OF INSURANCE**

If and when requested by District at any time during the RFP process, Proposer shall provide evidence satisfactory to District that it has obtained and paid for the insurance coverage required by the Agreement.

## **W. PROTESTS**

Subject to the terms of the RFP, a Proposer may protest a decision by the District to Award to another Proposer. Such protest is only permitted on the grounds of violations by the District of the District's procurement policies or of laws and regulations governing the Districts procurement activities and only if the Proposer asserting the protest complies with District's Business Operations and Policy Procedures, PP-04-09, Bid Protests and Appeals, a copy of which is attached hereto as Attachment No. 10 – "Operations and Policy Procedures, PP-04-09" and is available on line at the following address:

<http://www.laccd.edu/Departments/BusinessServices/Contract-Services/Documents/04-09-bid-protest-and-appeal.pdf>.

A protest shall comply with the provisions of the aforementioned rules that govern bids or proposals that exceed the applicable statutory bid threshold.

In order to be considered, a protest must be in writing. The written protest must state the basis for the protest and the remedy sought and must be filed

with and received by the District, not more than five (5) business days following the date of issuance of the District's Notice of Intent to Award, at the following address:

Vice Chancellor of Finance and Resource Development  
or designee  
Los Angeles Community College District  
770 Wilshire Blvd, 6<sup>th</sup> Floor  
Los Angeles, CA 90017

Failure to properly prepare and timely file the protest shall constitute grounds for the District to deny the protest without further consideration of the grounds stated therein.

Nothing stated in the RFP shall be interpreted as limiting the District's right to disqualify a Proposer based on a finding by the District that the Proposer or any Subconsultant proposed by a Proposer is not responsible, meaning that the Proposer or Subconsultant does not have the demonstrated attributes of trustworthiness, quality, fitness, capacity, or experience to satisfactorily perform the Services. In the event of such a determination of non-responsibility, the Proposer's sole and exclusive rights to appeal shall be as set forth in the District's Administrative Regulation B-29 adopted pursuant to District Board Rule 71400.40.

## **X. OTHER DISTRICT RIGHTS**

The rights, powers, and discretion expressly conferred upon the District under the RFP are not intended to be exclusive but are cumulative and in addition to, and not a substitute for, every other right, power, or discretion existing or available to the District under the RFP or Applicable Laws.

## **XI. COMPETITIVE PROCESS**

### **A. METHODOLOGY FOR SHORT-LISTING**

Consistent with the provisions of Education Code §81645, the District's determination of the Short-Listed Proposers will be based upon which three (3) Proposers, from among all of the responsible Proposers submitting Proposals, have offered the lowest prices. In determining the pricing element to be used to determine the three lowest competitive proposals, consideration has been given to the fact that the District's descriptions of the scope of Services in the RFP allows for and encourages creativity that will likely result

in differentiation among the technical approaches proposed by the Proposers in their Technical Proposals. For that reason, and furthermore taking into consideration that the compensation provided for in the Agreement is exclusively a fee-based compensation based on Contract Hourly Rates and Basic Services Fees, the District's methodology for determining the three lowest prices will be by means of a calculation of a single, blended hourly rate for each Proposer based on an averaging, in the manner hereinafter described, of all of the Proposer's proposed Contract Hourly Rates. Such blended hourly rate will be calculated solely for purposes of determining the list of Short-Listed Proposers and is not intended to be used following Award for billing purposes under the terms of the Agreement. In calculating a Proposer's blended hourly rate, the Contract Hourly Rates proposed by the Proposer for each of the job titles/positions in Proposer's proposed list of Consultant's Personnel set forth in its staffing plan submitted as part of its Staffing and Price Proposal will be totaled and divided by the number of such listed job titles/positions. The foregoing averaging process will not include a weighted averaging based on the number of hours at each Contract Hourly Rate that the Proposer estimates will be expended over the Term. In the event of tie resulting in more than three Proposers submitting the three lowest average blended hourly rates, such Proposers will be ranked according to the total scores they received from the First Phase evaluations of their Technical Proposals and the three highest-ranked Proposers (the higher ranking being based on the higher of the total aggregate scores received for the First Phase) will be selected as the Short-Listed Proposers.

## **B. TECHNICAL EVALUATIONS**

**1. Evaluation Panel.** The Evaluators comprising the Evaluation Panel will conduct the reviews and analyses that are necessary for First and Second Phase evaluation and scoring. Submission of a Proposal constitutes consent by Proposer to disclosure of all the contents of its Proposals (including, without limitation, Proprietary and Confidential Information) to the Evaluators and to any consultants or others providing technical or legal advice or assistance to the District or Evaluation Panel. By use of numerical or other scoring techniques, the Evaluators will base their evaluations and scoring of Technical Proposals and Interviews/Presentations on the primary evaluative factors and scoring methodologies specified in the RFP. District assumes no responsibility, and nothing herein shall be interpreted as implying any obligation of the District, to disclose to Proposers any of the sub-factors, maximum or minimum point values, or relative weightings assigned to sub-factors that serve as the basis for the District's evaluation or scoring of the primary evaluative factors. In the exercise of its sole discretion, the District

reserves the right to make any changes in the evaluation process, evaluative criteria, scoring methodologies, and/or weighting of evaluative criteria at any point during the RFP process. Any such changes that constitute modifications to the information contained in the RFP and that are judged by the District, in its sole and absolute discretion, to be material will be communicated to the Proposers by RFP Addendum. In submitting its Proposal in response to this RFP, the Proposer accepts and agrees that no error or omission made by an Evaluator in scoring a Technical Proposal or Interview/Presentation shall constitute a ground for protest or challenge to an Award to a different Proposer unless the evidence produced by the protesting Proposer in the manner required by the RFP demonstrates that such error was intentional and that but for such error occurring, the protesting Proposer would have been entitled to receive the Award. During the evaluation process the District may, in its sole and absolute discretion, request supplemental information in order to evaluate a Technical Proposal. For this purpose, the District may request such information from the Proposer after the initial submission of Proposals. If such information is required, the Proposer will be notified and will be permitted a reasonable period of time to submit the information.

**2. Technical Proposal Evaluations.** Technical Proposals shall be evaluated and scored based upon the following primary evaluative factors:

<b>Primary Evaluative Factors (Technical Proposals):</b>	<b>Maximum Points</b>
Proposer Qualifications and Experience	25
Personnel Qualifications and Experience	25
Technical Approach	30
Overall Technical Proposal Quality	20
<b>Maximum Points (Technical Proposal Evaluations)</b>	<b>100</b>

“Maximum Points” refers to the maximum possible number of points that a single Evaluator may give to a Proposer for the listed primary evaluative factor. Evaluative factors listed above are limited to primary factors. Evaluation and scoring in some cases may be based on the maximum possible points listed above being allocated and assigned to evaluative sub-factors not shown above.

Scores received by a Proposer from all Evaluators for all of the above primary evaluative factors will be totaled for purposes of determining the Proposer’s total aggregate score for the First Phase evaluation of Technical Proposals.

**3. Interview/Presentation Evaluations.** In the Second Phase of the RFP process, the District will evaluate and score the performances by the Short-Listed Proposers in their Interviews/Presentations. Scoring will be according to the methodology shown in the table below:

<b>Primary Evaluative Factors (Interviews/Presentations):</b>	<b>Maximum Points</b>
Presentation (including responses to Scripted Questions*, if any)	30
Responsiveness to Questions (other than Scripted Questions)	10
Overall Communication/Interpersonal Skills	20
Overall Demonstrated Knowledge	20
Overall Performance	20
<b>Maximum Points (Interview/Presentation Evaluations)</b>	<b>100</b>

\*"Scripted Questions" are questions distributed in advance to the Proposers by RFP Addendum.

“Maximum Points” refers to the maximum possible number of points that a single Evaluator may give to a Proposer for the listed primary evaluative factor. Evaluative factors listed above are limited to primary factors. Evaluation and scoring in some cases may be based on the maximum possible points listed above being allocated and assigned to evaluative sub-factors not shown above.

Scores received by a Proposer from all Evaluators for all of the above primary evaluative factors will be totaled for purposes of determining a Proposer’s total aggregate score for the Second Phase evaluation of Interviews/Presentations.

## **XII. AWARD**

### **A. NOTICE**

At the option of the District, following the conclusion of the Second Phase, the District may, but is not required to, issue a Notice of Intent to Negotiate announcing the District's intention to enter into Negotiations. Alternatively, in the exercise of its sole discretion, the District may elect to issue a Notice of Intended Award to any of the Short-Listed Proposers without conducting Negotiations.

### **B. AWARD**

The District intends to make its Award to the Short-Listed Proposer whose Technical Proposal and Staffing and Price Proposal are in combination and overall judged by the District to be in the best interests of and most advantageous to the District. Without limitation to the generality of the foregoing, the District assumes no obligation to Award to the highest-ranked Short-Listed Proposer based on scores received from the First Phase and/or Second Phase or to the Proposer who has submitted a Staffing and Price Proposal that reflects the lowest cost to the District, nor does the District assume any obligation to justify its Award based on any cost-benefit or tradeoff analysis that compares the relative or marginal values of differing elements of competing Proposals. Subject to the processes called for by the RFP, the District reserves the right to Award to any or none of the Short-Listed Proposers.

### **C. BOARD OF TRUSTEES' APPROVAL**

Approval by the District's Board of Trustees is required prior to Award, and no Notice of Intended Award shall be binding upon the District unless an Award is so approved.

## **XIII. OWNERSHIP OF PROPOSALS**

All Proposals and information contained in or submitted therewith shall upon submission to the District become the property of District. No portion of any Proposal will be returned by the District to the Proposer unless all of the following have occurred: (1) the portion is marked as "Proprietary and Confidential" in the manner required by Part X, I, above, (2) the Proposer has requested in writing in its Proposal that such portion be returned in the event



the Proposer does not receive Award, and (3) within thirty (30) days after Award the Proposer requests in writing that such portion be returned.

## **XIV. RFP ATTACHMENTS**

### **RFP ATTACHMENT NO. 1**

#### **WEBSITE REDESIGN AND IMPLEMENTATION AGREEMENT**

This Website Redesign and Implementation Agreement ("Agreement") dated for reference purposes as of \_\_\_\_\_, 20\_\_ ("Reference Date") is entered into between the **LOS ANGELES COMMUNITY COLLEGE DISTRICT** ("District") and \_\_\_\_\_ ("Consultant"), hereinafter each individually referred to as "Party" and collectively as "Parties."

#### **RECITALS**

**A.** Los Angeles Community College District, the nation's largest community college district, encompasses an area of 884 square miles in metropolitan Los Angeles and serves a population of several million residents. The District's nine (9) colleges are Los Angeles City College, East Los Angeles College, Los Angeles Harbor College, Los Angeles Mission College, Los Angeles Pierce College, Los Angeles Southwest College, Los Angeles Trade-Technical College, Los Angeles Valley College, and West Los Angeles College ("Colleges").

**B.** On July 8, 2019, the District issued a Request for Proposal No. 19-05 ("RFP") for the competitive procurement of qualified firm to creatively and comprehensively redesign, develop, deploy, implement, test, train District staff in the use of, and maintain the websites of the District and its Colleges with a single platform and common navigation across all websites that conforms, without limitation, to the most current versions of the technical accessibility requirements of Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. §794d) and Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 *et seq.* and 12181 *et seq.*).

**C.** Consultant represents that it has the requisite professional skills, business processes, and information technology knowledge, implementation methodology, experience, project management expertise, integration capabilities, and resources required to perform and deliver the services and other things required of it by the terms of this Agreement.

#### **AGREEMENT**

In consideration of the foregoing Recitals (which are hereby incorporated herein) and the mutual covenants and agreements contained herein, the Parties agree as follows:

## 1. Definitions.

The following terms, when used in this Agreement, shall have the following meanings:

### 1.1 "Accessibility Laws".

"Accessibility Laws" shall mean the Applicable Laws governing accessibility of electronic and information technology to persons with disabilities, including, without limitation, Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. §794d) and Titles II and III of the Americans with Disabilities Act (42 U.S.C. §§12131 *et seq.* and 12181 *et seq.*), including the technical standards and guidelines in the most current edition of WCAG 2.0.

### 1.2 "Additional Services".

"Additional Services" shall mean the services described or referenced in Section 6 hereof.

### 1.3 "Additional Services Compensation".

"Additional Services Compensation" means the Additional Services Fees payable to Consultant for its performance of Additional Services.

### 1.4 "Additional Services Fees".

"Additional Services Fees" shall mean the fees payable to Consultant at the Contract Hourly Rates for time expended in the performance of Additional Services by Consultant's Personnel listed in Exhibit "C" – Contract Hourly Rates attached hereto.

### 1.5 "Agreement".

"Agreement" shall mean this Website Redesign and Implementation Agreement, inclusive of its exhibits.

### 1.6 "Applicable Laws".

"Applicable Laws" shall mean applicable statutes, ordinances, regulations, policies and guidelines (including, without limitation, Accessibility Laws), which are in effect at the time the Services under this Agreement are performed or required to be performed by Consultant.

### 1.7 "Basic Compensation".

"Basic Compensation" shall mean the Basic Services Fees payable to Consultant for its performance of Services in accordance with this Agreement.

1.8 "Basic Services Fees".

"Basic Services Fees" shall mean the fees payable to Consultant at the Contract Hourly Rates for time expended in the performance of Services by Consultant's Personnel listed in Exhibit "C" – Contract Hourly Rates attached hereto; provide, however, that no time for travel from or to personal residences to Consultant's or a Subconsultant's place of business shall be included in the calculation of Basic Services Fees. Basic Services Fees and the sole and exclusive compensation to Consultant for performance of the Services and are presumed to include all costs and expenses, of any kind, associated with Consultant's performance of the Services.

1.9 "Business Days".

"Business days" shall mean Monday through Friday, except national and state holidays.

1.10 "Consultant".

"Consultant" shall mean the Party identified as "Consultant" in the preamble to this Agreement.

1.11 "Consultant's Personnel".

"Consultant's Personnel" shall mean the individuals, whether employees of Consultant or a Subconsultant, performing Services under the job titles/positions listed in Exhibit "C" – Contract Hourly Rates attached hereto (including, without limitation, the Consultant's Project Manager) and that are billable to the District at the Contract Hourly Rates set forth in Exhibit "C" – Contract Hourly Rates attached hereto that correspond to such job titles/positions.

1.12 "Consultant Software".

"Consultant Software" shall mean any and all software, code, patches, modules, toolsets or plugins incorporated into the Website by Consultant. Consultant Software shall not include configuration of Licensor Modules.

1.13 "Contract Hourly Rates".

"Contract Hourly Rates" shall mean the hourly rates for Services and Additional Services set forth in Exhibit "C" – Contract Hourly Rates attached hereto. Contract Hourly Rates are deemed to be fully burdened, "all in" rates that cover all of the Consultant's direct and indirect overhead and profit, including, without limitation, all travel (mileage or otherwise) and subsistence expenses.

1.14 "Creative Works".

"Creative Works" shall mean any and all original works of authorship fixed in any tangible medium of expression, including, but not limited to, writings, charts, drawings, software, videos, photographs, music, designs, and mask works, and further including, but not limited to, any other subject matter for which copyright or mask work protection would apply, specifically including process designs, computer software, materials, instructional and procedural manuals, and related documents and copies thereof.

1.15 "Days".

"Days" shall mean calendar days.

1.16 "Deliverable".

"Deliverable" shall mean work product to be provided by Consultant pursuant to Exhibit "A" – Description of Services attached hereto.

1.17 "Final Completion".

"Final Completion" shall mean full and final completion of the Services, including achievement by Consultant of all Milestones, acceptance of Consultant's achievement of Milestones by District, and Go-Live of the District and all College Websites.

1.18 "Generic Know How".

"Generic Know How" shall mean, material other than Confidential Information of the District that is used in, enhanced, or developed in the course of providing Services hereunder that is of a general abstract character (or may be generically re-used) including, without limitation: methodologies; delivery strategies, approaches and practices; generic software tools, routines, and components; generic content, research and background materials; training materials; application building blocks; templates; analytical models; project tools; development tools; solutions and descriptions thereof; ideas; and skills.

1.19 "Go Live".

"Go Live" shall mean the date at which a College or the District ceases utilizing its legacy website and begins utilizing the redesigned website created by Consultant with a level of functionality that reflects full achievement by Consultant of the Milestones.

1.20 "Implementation" or "Implement".

"Implementation" or "Implement" shall mean the process by which the Website is installed, implemented, and adapted for use by the District as provided in this Agreement. Implementation includes, but is not limited to assessments, planning, designing,

development, deployment, knowledge transfer, converting of systems, and reengineering of business processes.

1.21 "Invoice".

"Invoice" means the Consultant's itemized invoice requesting payment of a portion of Basic Compensation or Additional Services Compensation.

1.22 "Intellectual Property".

"Intellectual Property" shall mean, as to Consultant's work product provided under this Agreement, all ideas, Inventions (whether patentable or not and whether or not such inventions are described or claimed in any patent or patent application), Joint Inventions, discoveries, improvements, designs (useful or ornamental), technical or other information, and works subject to copyright, all as may be manifest in or result from specifications, manuals, reports, drawings, functional or system block diagrams, flowcharts, circuit diagrams, design or user documentation, engineering notebooks, schematics, simulation data, procedures, processes, flows, software, firmware or other tangible or intangible embodiments of information, which relate to the concept, function, design, development, manufacture, testing, use, operation, maintenance or repair of any system (whether hardware, software, or combined) product, apparatus, article of manufacture, program, process, method, or service. "Intellectual Property" shall also include patents, patent applications (including continuations, continuations-in-part, divisions, reissues, reexamined patents and patent applications, and extensions thereof), copyrights, trademarks, service marks, trade names, logos, trade secrets, and any proprietary right(s) residing in or derived from the subject matter above. Excluded from this definition are pre-existing intellectual property of either Party and Generic Know-How learned in the course of performing the Services covered by this Agreement.

1.23 "Invention".

"Invention" shall mean an idea, design, technique, invention, discovery, or improvement thereof, patentable or not, any part of which is conceived or reduced to practice in performance of this Agreement by Consultant or Consultant's Personnel. "Invention" does not include Generic Know-How learned in the course of performing this Agreement.

1.24 "Key Personnel".

"Key Personnel" shall mean the members of Consultant's Personnel who are identified by position and/or name in Exhibit "A" – Key Personnel attached hereto who are deemed of the essence to this Agreement.

1.25 "Milestone(s)".

"Milestone(s)" shall mean the performance milestones set forth in Exhibit "D" –Performance Milestones attached hereto.

1.26 "Milestone Payment Schedule".

"Milestone Payment Schedule" means the Parties' agreed allocation in Exhibit "F" – Milestone Payment Schedule of the Maximum Price to the separate Milestones.

1.27 "Platform".

"Platform" shall mean Drupal 8, with compatibility to upgrade to Drupal 9 when released.

1.28 "Platform Modules".

"Platform Modules" shall mean all modules of the Platform which are to be utilized in the Website, along with any Consultant Software required to be provided by Consultant as part of the Services.

1.29 "Project Lead".

"Project Lead" shall mean the lead person acting on behalf of District. Except as expressly set forth in this Agreement, "Project Lead" shall not be interpreted in such a way as to defeat the responsibility of Consultant for providing the overall expertise in how to design and Implement the Websites.

1.30 "Project Manager".

"Project Manager" shall mean the person acting on behalf of Consultant as its project leader as described in Section 4.1 hereof.

1.31 "Proprietary or Confidential Information".

"Proprietary or Confidential Information" of the District means all information concerning the past, present or future business or educational activities of District, its employees, consultants and/or students, as well as any information reasonably identifiable as the confidential and proprietary information of District. "Proprietary" or "Proprietary or Confidential Information" of the Consultant means information that is, and that the Consultant has clearly identified in writing to the District as being, confidential and proprietary information of the Consultant. "Proprietary Information" of a Party does not include any information which (i) is or becomes publicly available through no act by the other Party constituting a violation of a duty of confidentiality; or (ii) was or is rightfully acquired by the other Party from a source other than the disclosing Party, prior to receipt from the disclosing Party; or (iii) becomes

independently available to the other Party as a matter of right. The District may require any or all of Consultant's Personnel and the Subconsultants' personnel to sign a Duty of Confidentiality Agreement prior to or at any time during performance of the Services.

1.32 "Retention".

"Retention" shall mean that portion equal to ten percent (10%) of each undisputed payment requested by Consultant in an Invoice that shall be withheld by District pending Final Completion.

1.33 "RFP"

"RFP" shall mean the Request for Proposal No. 19-05, to which Consultant provided a response and proposal to the District, as well as any materials and responses by Consultant.

1.34 "Services".

"Services" shall mean the services as described or referred to in Section 3 hereof and the Description of Services – Exhibit "A" attached hereto.

1.35 "Standard of Care".

"Standard of Care" means the standard of care set forth in Section 3.2 hereof governing Consultant's and its Subconsultants' performance of the Services and Additional Services.

1.36 "Subconsultant".

"Subconsultant" shall mean a person or firm approved by District that has a contract with Consultant to provide a portion of the Services or Additional Services.

1.37 "Users".

"Users" shall mean any individual or entity authorized by District to use the District's, or any College's, Website.

1.38 "Website".

"Website" (or "Websites") shall mean the District's and all of its Colleges' websites.



## **2. Term.**

This Agreement shall be effective as of the Reference Date and shall continue in effect until the earlier to occur of the following: (a) twenty-four (24) months from the Reference Date or (b) termination of this Agreement in accordance with the provisions of Section 12 hereof. Time is of the essence to performance by Consultant of its obligations under this Agreement. However, the Parties acknowledge that due to the joint, iterative, and interactive nature of the Services, delay by District in meeting its obligations may cause the Consultant to be unable to meet previously agreed upon timetables and that no such delay will violate this 'time is of the essence' provision so long as the Consultant has fully complied with the requirements of Section 4.3(D) hereof.

## **3. Services.**

### **3.1 Scope of Services.**

The Services consist of those services, whether provided by Consultant or Subconsultants, described or referred to in the Exhibit "A" – Description of Services attached hereto, as well as any other services within the scope of Consultant's field of professional services that are reasonably inferable as being necessary, and that are customarily furnished by other providers of professional services of the type and nature provided for in this Agreement, to accomplish the Services expressly described in Exhibit "A" – Description of Services attached hereto. In addition, the scope of Services shall be deemed to incorporate the representations made by Consultant in its proposal submitted in response to the RFP, a copy of which is attached hereto as Exhibit "G" – RFP Proposal.

### **3.2 Standard of Care.**

Consultant agrees to perform the Services and Additional Services in an expeditious and economical manner consistent with the interests of District and in accordance with generally accepted professional standards and practices for services of similar scope and complexity. Consultant and its Subconsultants are responsible to perform all Services and Additional Services to the level required by the Standard of Care and nothing stated elsewhere in this Agreement shall be interpreted as relieving Consultant from responsibility or liability for the acts or omissions of Consultant or its Subconsultants that fall below the Standard of Care.

### **3.3 Deliverables.**

Deliverables consisting of written or electronic work product shall, when submitted, include a written description that includes each of the following: (1) the Deliverable Number; (2) the Deliverable name; (3) the Deliverable type; (4) the Deliverable purpose; (5) the Deliverable content and description; (6) the Deliverable sign-off process; (7) the Party responsible for the Deliverable; (8) the format of the Deliverable; (9) the period of time for review of the Deliverable; and (10) the date that Consultant has scheduled for return of the Deliverable to Consultant by the District.

#### 4. Administration of Agreement - Consultant

##### 4.1 Consultant's Project Manager.

Consultant's Project Manager shall be the person acting on behalf of Consultant who is responsible for Consultant's day-to-day activities related to Consultant's performance of this Agreement. The Project Manager shall report to the District in the manner set forth in Section 4.3 (Reporting by Consultant) hereof. The Project Manager shall assign and schedule all other Consultant's Personnel in their performance of the Services. Project Manager shall act as Consultant's representative for dispute resolution. Project Manager shall meet and confer with the District's Project Lead on a regular basis. Consultant's Project Manager as of the Reference Date is the person identified as Project Manager in Exhibit "A" – Key Personnel attached hereto.

##### 4.2 Consultant's Personnel.

###### A. Staffing.

Consultant's Personnel assigned to the performance of the Services are listed by job title/position and/or name in Exhibit "C" – Contract Hourly Rates attached hereto. Consultant represents and warrants that all Consultant's Personnel assigned to perform Services or Additional Services under this Agreement have prior experience performing the specific tasks to which they are assigned on previous implementations where they actually performed such tasks for higher education institutions. Consultant further represents and warrants that it has sufficient qualified personnel to timely complete all of the Services set forth in this Agreement, and that it does not currently have any positions which are not filled with qualified personnel for which the absence of such qualified personnel would impact the Services to be provided to the District in any timely and material way, and that for so long as such personnel are employed by Consultant, Consultant will provide and maintain such qualified personnel in the performance of the Services throughout the Term of this Agreement.

###### B. Approval.

The District has the sole discretion to approve or disapprove of Consultant's Personnel and no member of Consultant's Personnel (other than clerical staff) shall begin to perform Services without prior approval of the District. If and to the extent the Consultant has not already done so as part of its response to the RFP, Consultant shall provide the District with a resume of each such member of Consultant's Personnel and provide the District with an opportunity to interview such person prior to his/her performing any Services.

C. Cessation.

Consultant shall provide written notice to District as soon as it becomes aware of the cessation, or impending cessation, of performance of Services by any member of Consultant's Key Personnel, whether such cessation is due to a termination of his/her employment by Consultant's or a Subconsultant, a request of the District pursuant to Section 4.2, D hereof, or for any other reason. No member of Consultant's Key Personnel, for so long as he/she is employed by Consultant or a Subconsultant, may be removed or reassigned from performance of the Services without the District's advanced written approval. To the extent reasonably possible under the circumstances, a member of Consultant's Key Personnel who is ceasing performance of Services shall remain assigned to the performance of the Services for a minimum of ten (10) Business Days (unless District requests a shorter period of time pursuant to a cessation requested by District pursuant to Section 4.2, D hereof) for the purpose of training/educating his/her replacement. There shall be no charge to the District for the replacement member's time performing Services during such training/educating period. If a cessation in the performance of Services by a member of Consultant's Key Personnel is for the purpose of reassigning the member to another project of Consultant and the cessation is approved by District, the removed member shall, at District's request, if reasonably possible, be returned to performance of the Services under this Agreement within ninety (90) Days of the date of his/her cessation of performance of the Services. In the event Consultant replaces a member of Consultant's Key Personnel and such replacement was not approved by the District in the manner herein provided, the District shall not be obligated to pay for any Basic Services Fees associated with any Services or Additional Services performed by the replacement member unless and until the replacement member is approved by the District.

D. Removal.

The District may direct Consultant to remove any member of Consultant's Personnel whom the District reasonably and in good faith deems unsuitable in qualifications, performance, or conduct and the Consultant shall promptly replace such member in accordance with the provisions of this Section 4.2. In addition, and notwithstanding any other provision of this Agreement to the contrary, in the event that a member of Consultant's Personnel performs the Services or Additional Services in a manner that is deemed unacceptable by the District, the District will notify the Consultant stating the nature of the District's dissatisfaction. With respect to any problem created by such member that can be corrected, if Consultant fails to promptly correct the problem, District reserves the right to disallow all Basic Services Fees associated with that member's unsatisfactory performance.

E. Replacement.

Consultant shall promptly fill any vacancy in Consultant's Personnel with personnel approved by District and having qualifications at least equivalent to those of the member being replaced.

#### 4.3 Reporting by Consultant.

##### A. Weekly Meetings.

To control expenditures and to provide the District with current information as to the status of Consultant's performance of the Services, Consultant's Project Manager and other members of Consultant's Key Personnel as requested by District shall meet at least weekly with their District counterparts to review a written report provided by Consultant which contains:

(1) The status of all Services, including, without limitation, all tasks, sub tasks, Deliverables, goods, services, and other work, scheduled to be completed during the week, including the percentage of completion to date of each.

(2) The status of any unscheduled tasks, subtasks, Deliverables, goods, services or other work.

(3) The tasks, subtasks, Deliverables, goods, services, and other work scheduled to be completed in the following week.

(4) Issues to be resolved and issues that were resolved, with specific reference to issues that have or might negatively impact or in any way delay completion of a Milestone or Deliverable.

(5) Any other information which either Party believes is or may be significant to the other Party.

##### B. Monthly Executive Meetings.

No less frequently than monthly, Consultant's Project Manager and any other required executive-level personnel of Consultant will meet with District's Project Lead and other project sponsors to review the progress that has been detailed in the prior weekly reports. Upon District's request, Consultant shall provide reports as requested by the Project Executive Steering Committee or Board of Trustees of District in order to assist the District with its routine reporting obligations.

##### C. Quarterly Reports.

Consultant shall provide District with quarterly written reports of:

(1) The high level status of Services, including, without limitation, all tasks, subtasks, Deliverables, goods, services, and other work, scheduled to be completed during the quarter.

(2) The status of all unscheduled tasks, subtasks, Deliverables, goods, services, or other work.

(3) The high level status of Services, including, without limitation, all tasks, subtasks, Deliverables, goods, services, and other work, scheduled to be completed in the following quarter.

(4) Issues to be resolved and issues that were resolved, with specific reference to issues that have or might negatively impact or in any way delay completion of a Milestone or Deliverable.

(5) Any other information which either Party believes is or may be significant to the other Party.

**D. Alert Reports.**

Consultant shall promptly notify in writing District's Project Lead on becoming aware of any change, problem or delay that would impede, prevent, or increase the cost of completion of the Services, a Milestone, or any Deliverable, but in no event more than ten (10) Days after becoming aware of such change, problem, or delay. Such written notice shall include a detailed description of the relevant change, problem, or delay and include recommendations for resolution or disposition. In the event that Consultant believes that the change, problem, or delay is caused by any action or inaction by the District, Consultant shall include in such Alert Report the following information: (1) the specific District action or inaction, if any, which Consultant believes has caused the change, problem, or delay; (2) any resource which District was required to provide related to the Services, Milestone, or Deliverable which Consultant believes the District has failed to provide; and (3) an estimate of the hours of services by Consultant's Personnel or other resources that would be required to recover from or overcome the impact of the change, problem or delay. No claim or request for a change order based on such change, problem, or delay that has been caused by District shall be made by Consultant, nor shall it constitute an excuse of performance or grounds for extension of any deadlines or performance periods under this Agreement, unless Consultant has fully complied with the provisions of this Section 4.3(D). Consultant's sole and exclusive remedy for a change, problem, or delay for which it has provided written notice in accordance with the provisions of this Section 4.3(D) shall be an extension to the deadlines and performance periods under this Agreement that are critically and unavoidably impacted by such change, problem, or delay, along with such additional compensation for Additional Services, if any, as permitted by Section 6 hereof. No other compensation or recovery is permitted.

**5. Administration of Agreement - District**

**5.1 District's Project Team.**

District's Project Lead shall meet and confer with Consultant's Project Manager on a regular basis. District's Project Lead shall have the right at all times to inspect any and all tasks, Deliverables, goods, services, and/or other work provided by or on behalf of Consultant. District's project team for purposes of administering this Agreement shall be the District's personnel listed in Exhibit "E"

D

– District Project Team attached hereto. The District shall notify Consultant in writing of any change in the name or contact information of any member of District's project team.

5.2 District Personnel.

District personnel shall remain under the administrative supervision of District.

5.3 Third Party Consultants.

District may, in its sole reasonable discretion, separately contract with any third party consultant to perform any or all of the Services to be performed by District hereunder.

5.4 Acceptance of Milestones.

Subject to the provisions of this Agreement, Consultant shall perform the Services in a reasonably prompt and diligent manner, consistent with the Standard of Care, so as to achieve completion of the Milestones set forth in Exhibit "D" – Performance Milestones attached hereto. The Parties recognize and acknowledge that, in some cases, they will need to work together to achieve timely completion of the Milestones. At the point that the Consultant believes a Milestone has been achieved, the Consultant shall request in writing that the Milestone be accepted by the District, at which time the Parties will participate in good faith in the following procedure: Within ten (10) Business Days following the date Consultant requests that a Milestone be accepted (the "Evaluation Period"), the District shall: (1) accept the Milestone; (2) mutually agree with Consultant to extend the Evaluation Period beyond ten (10) Business Days; or (3) provide a detailed written "Notice of Failure to Achieve Milestone" explaining why the District believes the failure to achieve the Milestone is due to an inadequacy in the Consultant's performance. If the District provides a Notice of Failure to Achieve Milestone to the Consultant, the Consultant shall promptly perform, on an accelerated basis, all services required to achieve such Milestone as soon as reasonably possible. Any such services that would not have been necessary but for the inadequacy in Consultant's performance shall be performed by Consultant at its own expense and without charge to District. Alternatively, if the Consultant reasonably believes the reason the Milestone was not achieved was due to a failure of District to meet its obligations under the Agreement, Consultant shall provide detailed notice of such performance failures by the District pursuant to Section 4.3(D) hereof. The District will then perform all actions required of it by the terms of the Agreement and that are necessary to enable Consultant to promptly achieve the Milestone, whereupon the Consultant may again request that the Milestone be accepted. At that point, the District shall either accept the Milestone or, if the Milestone fails acceptance for a second time for reasons attributable to inadequacies in the performance by Consultant, the District may decline to accept the Milestone and issue a new Notice of Failure to Achieve Milestone in the same manner and on the same conditions as aforesaid in this Section 5.4.

## 6. Additional Services.

### 6.1 Definition.

Additional Services consist of and are limited to services, not attributable to the negligence, willful misconduct, or a violation of this Agreement by Consultant, that are the result of Consultant's compliance with: (1) a written directive by the District that irreconcilably conflicts with a prior written directive or approval by District, including, without limitation, a request by District for a change in a Deliverable that has been previously approved in writing by District; (2) an inaccuracy or material incompleteness in information provided by District that has been reasonably relied upon by Consultant in performing the Services; (3) a written request by District for performance of professional services that are categorically different from and outside the scope of Services; or (4) changes in Applicable Laws that are enacted after execution of this Agreement. Before performing any Additional Service, the Parties shall endeavor to agree in accordance with Section 6.2 hereof on the scope, not-to-exceed compensation, and time schedule for performance of such Additional Services. Except as permitted by Section 6.2 hereof, Additional Services performed without such agreement by District shall be deemed performed at Consultant's own expense and at no cost to the District.

### 6.2 Compensation.

Prior to performance of Additional Services, the Parties shall endeavor to agree upon the compensation to be paid to Consultant as Additional Services Compensation. In the event the Parties are unable to agree, then District shall have the option to direct that the Additional Services be performed for an Additional Services Compensation equal to the sum of (1) the actual hours expended by Consultant's Personnel listed in Exhibit "C" – Contract Hourly Rates attached hereto in the performance of the Additional Services multiplied times the corresponding Contract Hourly Rates for such Consultant's Personnel as set forth in Exhibit "C" – Contract Hourly Rates attached hereto; provided, however, that under no circumstances shall the District be responsible to pay a total sum for Additional Services Compensation for such Additional Services that exceeds a sum that, taking into all of the circumstances under which such Additional Services were performed, is reasonable and fair to both Parties.

### 6.3 Board Approval.

Additional Services Compensation must be approved by District's Board of Trustees and Additional Services Compensation that is not so approved shall not be paid or payable by District under this Agreement. If the Board of Trustees fails to approve the Additional Services Compensation for performance of Additional Services, Consultant shall not be bound to perform the Additional Services.

### 6.4 Scope Reductions.

The District shall have the right to reduce the scope of Services under this Agreement in accordance with Section 12.2 hereof, in which event a proportional and equitable reduction shall be made in the Maximum Price.

## 6.5 Customization.

It is the stated intent of the Parties that, to the maximum degree possible, the Parties will Implement the Websites utilizing standard functions of the Platform and those which are configured using the most common configuration utilized by other educational institutions utilizing the Platform. Accordingly, the Parties shall make every effort to see to it that the Services are performed in a manner in which standard functions and configurations of the Platform are favored over any customizations, including Consultant Software. If notwithstanding the foregoing, customization is required then the following procedures shall be followed: Prior to any customization, including Consultant Software, being Implemented as part of the Website, whether or not such customization or Consultant Software is chargeable to District, the Parties shall create a written summary of the effort to be undertaken, which shall describe the following: (1) the rationale for the customization; (2) the estimated additional Consultant resources required to achieve the customization; (3) the cost in Additional Services Compensation to the District of the customization, including the cost of future upgrades, support costs and other related implementation costs, if any; (4) the impact to the overall project schedule if the customization is authorized; and (5) the impact to the Website if the customization is not provided. District's Project Lead shall thereafter authorize or deny the customization within ten (10) Days of the receipt of such request. By way of clarification to the foregoing, any and all modifications necessary to insure that the Website meets all requirements for reporting and compliance with all Federal and California state statutes and regulations, including those related to Accessibility Laws, shall not be considered a "customization."

## **7. Implementation Documentation**

At District's request, Consultant shall provide District with documentation relating to the design and Implementation of the Websites as specified in Exhibit "A"– Description of Services attached hereto. Consultant shall convey any ownership and other intellectual property rights therein as provided in Section 16 hereof (Intellectual Property). Any and all modifications necessary to insure that the Websites meet all requirements for reporting and compliance with all Federal and California state statutes and regulations, including those related to Accessibility Laws, shall be Implemented by Consultant within the Maximum Price and the Term.

## **8. Basic Compensation**

Consultant shall be paid a total Basic Compensation for performance of the Services (including, without limitation, Services performed by Subconsultants) comprised exclusively of Basic Services Fees (based on actual hours of Services performed by Consultant's Personnel at the Contract Hourly Rates set forth in Exhibit "C" – Contract Hourly Rates attached hereto) not to exceed a Maximum Price of [REDACTED] Dollars/No Cents (\$ [REDACTED]). If the total sum of Basic Services Fees upon Final Completion is less the Maximum Price, the savings shall accrue 100% to the District and the Consultant shall have no interest therein or claim thereto. Basic Services Fees constitute the Consultant's sole, exclusive, and complete



compensation for time expended and costs and expenses, of any kind, incurred in the performance of Services.

**9. Invoices.**

**9.1 Submission.**

Using a form of Invoice approved by District, Consultant shall once a month submit, no later than the 15th Day of the month, an accurate and complete Invoice, signed by Consultant, requesting payment for Services and Additional Services performed by Consultant during the preceding calendar month. All Invoices shall be submitted to: [REDACTED], Los Angeles Community College District, 770 Wilshire Blvd., Los Angeles, CA 90017, with copies to [REDACTED] at the same address. Amounts requested by Consultant in its Invoices shall be calculated in accordance with the following:

A. Basic Services Fees. Amounts included by Consultant for Basic Services Fees shall be based on the number of hours of Services expended by Consultant's Personnel during the preceding month multiplied times the corresponding Contract Hourly Rates assigned to such Consultant's Personnel in Exhibit "C" – Contract Hourly Rates attached hereto; provided, however, that such amount shall not, when added to all other Basic Services Fees previously paid by District, exceed the following progress payment limitation on monthly Basic Services Fees: (a) the percentage of Consultant's progressed performance of each of the Milestones multiplied times (b) the portion of the Maximum Price allocated to each such Milestone in Exhibit "F"– Milestone Payment Schedule.

B. Additional Services Fees. Amounts included by Consultant in an Invoice for Additional Services Fees for performance of Additional Services shall be based on the number of hours expended by Consultant's Personnel during the preceding month in performance of such Additional Services multiplied times the corresponding Contract Hourly Rates assigned to such Consultant's Personnel in Exhibit "C" – "Contract Hourly Rates" attached hereto; provided, however, that such amount shall not, when added to all other Additional Services Fees previously paid by District for performance of such Additional Services, exceed the following progress payment limitation on monthly Additional Services Fees: (1) the percentage of Consultant's progressed performance of such Additional Services multiplied times (2) the portion of any maximum price or lump sum price that has been previously agreed to by the Parties in accordance with Section 6 hereof as the basis for the Additional Services Compensation payable by District for such Additional Services.

**9.2 Substantiation.**

Invoices shall be accompanied by written substantiation of the amounts requested for payment, including the following: (1) contemporaneous daily time sheets in support of requests for payment of Basic Services Fees and Additional Services Fees performed and

payable on an hourly basis (with or without a maximum price), with time discretely broken down by task (i.e., not based on “block billings” that consolidate different tasks into a single, large block of time), verifying time expended by Consultant’s Personnel performing the Services and Additional Services; and (2) such other documentation as reasonably requested by District, either before or after receipt of such Invoice.

### 9.3 Approval by District.

Invoices submitted by Consultant for payment must have the written approval of District's Project Lead prior to any payment thereof (less any withholdings to which District is entitled under Section 9.6 hereof) which approval shall be provided or denied in a timely manner considering the circumstances, not to exceed fifteen (15) Business Days. In no event shall the District be liable or responsible for any payment requested in an Invoice prior to such written approval of such Invoice. If the District disputes a portion of an Invoice, its obligation will be to pay the undisputed portion.

### 9.4 Payment by District.

Within thirty (30) Days after receipt by District of an Invoice prepared and submitted in accordance with this Agreement, District shall pay ninety (90%) of the undisputed amount due and payable to Consultant. The remaining ten (10%) shall be withheld as Retention. Following Final Completion, Consultant shall prepare and submit an Invoice requesting final payment. The Consultant’s final Invoice shall include (1) Retention and (2) any previously unbilled and unpaid Basic Services Fees and Additional Services Fees that were not previously due or payable by reason of the monthly limitations on progress payments set forth in Sections 9.1, A or B hereof; provided, however, that under no circumstances shall the Consultant include in its final Invoice, and under no circumstances will the District be obligated to pay, a total amount of Basic Services Fees that exceeds the Maximum Price. Subject to the District’s right of withholding pursuant to Section 9.6 hereof, amounts included by Consultant in a final Invoice that has been prepared and submitted in accordance with this Agreement shall be paid to Consultant within forty-five (45) Days after receipt by District of such Invoice. Any disputed amounts, whether included in a monthly Invoice or the final Invoice, will be addressed by the Parties pursuant to the terms of the dispute resolution provision set forth in Section 33 hereof.

### 9.5 Waiver of Claims.

Acceptance of final payment by Consultant shall constitute a waiver of all claims by Consultant, except for those previously made in writing and identified by Consultant as unsettled in Consultant’s Invoice requesting such final payment that is prepared and submitted in accordance with this Agreement.

9.6 Withholding of Payments.

District shall have the right, in the event of a breach by Consultant of any provision of this Agreement, to withhold from monthly or final payments otherwise due and payable to Consultant, amounts to protect against losses or liabilities occurring or threatened as a result of such breach.

9.7 Continuous Performance.

Consultant shall not stop, slow, or suspend performance of the Services or Additional Services on account of any good faith dispute between District and Consultant.

9.8 Taxes.

Consultant shall be responsible for payment of all sales and other taxes incurred by Consultant or any Subconsultant.

9.9 Contract Hourly Rates.

Contract Hourly Rates as set forth in Exhibit "C" – Contract Hourly Rates attached hereto that are used in the calculation of Basic Services Fees or Additional Services Fees shall not be escalated or increased at any time during and for the duration of the Term.

9.10 Payment of Monthly Charges Does Not Imply Acceptance.

The making of any monthly payment or payments by District shall not imply acceptance by District of any Services or Additional Services performed hereunder or the waiver of any warranties or requirements of this Agreement. District expressly reserves the right to disallow any charges which do not conform to the terms of this Agreement and to recoup and recover amounts overpaid or incorrectly paid.

**10. Consultant's Representations, Warranties and Covenants.**

10.1 Service Warranty.

Consultant represents, warrants and agrees that all Services to be provided under this Agreement shall be performed in a professional, competent, and timely manner by appropriately qualified personnel in accordance with Exhibit "A" – Description of Services attached hereto and as otherwise provided in this Agreement.

## 10.2 Implementation Warranty.

Consultant represents, warrants and agrees that each Website, including any Consultant Software, shall conform in all material respects to the requirements and functions identified in Exhibit "A" – Description of Services attached hereto.

## 10.3 Limited Warranty.

For a period of twelve (12) months following Go Live of each Website, Consultant shall make all corrections, or adjustments whether by repair, rework, replacement, or otherwise (collectively referred to for purposes of this Article as "Corrective Action(s)"), at no additional charge to the District, regardless of whether the Correction Action was necessitated by actions of Consultant, the District or the Platform. Upon expiration of the twelve (12) - month period, Consultant shall thereafter perform Corrective Actions, at District, on an hourly basis at the agreed Contract Hourly Rates.

## 10.4 Correction, Repair, or Replacement.

A. Consultant represents, warrants, and agrees that during the term of the Limited Warranty set forth in Section 10.3 hereof, it shall make all corrections, adjustments, or modifications, whether by repair, rework, replacement, or otherwise (collectively referred to for purposes of this Section as "Corrective Action(s)"), necessary to comply with the warranties set forth in this Section 10 at no charge to District.

B. District shall promptly inform Consultant in writing of its request for Corrective Action. Consultant shall promptly take all reasonable steps to initiate Corrective Action as soon as practicable, but in no event shall Consultant take longer than ten (10) Business Days from receipt of a notice to take Corrective Action to complete such work unless mutually agreed in writing by the Parties.

## 10.5 Assignment of Warranties.

Consultant hereby assigns and agrees to deliver to District all representations and warranties received by Consultant from third party suppliers, to the extent assignable.

## 10.6 Litigation Warranty.

Consultant represents, warrants, and agrees that there are no existing or threatened legal proceedings against Consultant that would have an adverse effect upon its ability to perform its obligations under this Agreement or its financial condition or operations.

## 10.7 Virus Warranty.

Consultant represents, warrants and agrees that Consultant will not cause, whether intentionally or negligently, any unplanned interruption of the operations of, or

accessibility to, the Websites or any portion thereof through any device, method or means including, without limitation, the use of any 'virus,' 'lockup,' 'time bomb,' or 'key lock' device or program, or disabling code, which has the potential or capability of causing any unplanned interruption of the operations of, or accessibility of the Websites or any portion thereof to District or any User or which could alter, destroy, or inhibit the use of the Websites or any portion thereof or the data contained therein (collectively referred to for purposes of this Section as "Disabling Device(s)") which could block access to or prevent the use of the Websites or any portion thereof by District or Users. Consultant represents, warrants and agrees that it has not purposely placed, nor is it aware of, any Disabling Device on any portion of the Websites provided to District under this Agreement, nor shall Consultant knowingly permit any subsequently delivered portion of the Websites to contain any Disabling Device.

#### 10.8 Insurance Premiums.

Consultant represents, warrants and agrees that it will pay all premiums, deductible amounts, and other costs required to maintain all insurance policies in accordance with Section 13 (Insurance and Indemnity) hereof.

#### 10.9 Warranty Against Contingent Fees.

Consultant warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, District may terminate this Agreement for cause and, at its sole discretion, deduct from the amounts paid or payable hereunder, or otherwise recover, the full amount of such commission, percentage, brokerage, or commission fee.

#### 10.10 Representations and Warranties Throughout Agreement.

It is understood and agreed by the Parties that Consultant's representations and warranties are set forth throughout this Agreement and are not confined to this Section 10 (Consultant's Representations, Warranties and Covenants) hereof. CONSULTANT MAKES NO EXPRESS WARRANTIES OTHER THAN THOSE THAT ARE SET FORTH IN THIS AGREEMENT. CONSULTANT EXPRESSLY DOES NOT WARRANT THE OPERATION OF THIRD PARTY SOFTWARE.

### **11. Protection of Proprietary Information.**

11.1. Consultant is experienced and has the right to perform the Services and to incorporate the Platform in such a way that:

A. Consultant acknowledges that ownership of and title in and to all intellectual property rights, including patent, trademark, service mark, copyright, and trade secret rights, in District's Proprietary Information are and shall remain in District. Consultant acquires only the right to use District's Proprietary Information for the purposes of carrying out its

obligations pursuant to this Agreement and does not acquire any ownership rights or title in or to the Proprietary Information and that of District and its licensors. Consultant shall not copy, translate or make derivative works out of any such Proprietary Information.

B. Consultant agrees to take all reasonable steps and the same protective precautions to protect the Proprietary Information from disclosure to third parties as with its own proprietary and confidential information. Neither Party shall, without the other Party's prior written consent, disclose, provide, or make available any of the Proprietary Information of the other Party in any form to any person, except to its bona fide employees, officers, directors, or third parties whose access is necessary to enable such party to exercise its rights hereunder. Each Party agrees that prior to disclosing any Proprietary Information of the other Party to any third party, it will obtain from that third party a written acknowledgment that such third party will be bound by the same terms as specified in this Section with respect to the Proprietary Information.

11.2 Consultant accepts full responsibility for the acts or omissions of its employees, officers and agents with respect to Proprietary Information; and Consultant shall defend, indemnify and hold harmless District, its Board of Trustees, officers, employees and agents against any and all losses or damages suffered by District or arising from and/or in connection with any breach of confidentiality or inappropriate use of any Proprietary Information.

11.3 In the event Consultant develops, either independently or with District, any modifications or extensions to the Platform, or any other code or tangible product pursuant to the services to be provided by Consultant hereunder (collectively, "Work"), subject only to any contrary requirements relating expressly provided within the licensing terms of the Platform, such Work and all rights associated therewith shall be the exclusive property of District, and Consultant will not grant, either expressly or impliedly, any rights, title, interest or licenses to such Work to any third party. Consultant further agrees to assign all right, title and interest to any such Work and to execute, acknowledge and delivery to District any documents and do all things necessary to transfer ownership of such Work to District. Consultant agrees to secure such necessary rights and obligations from any of its employees or independent Consultants to satisfy the above obligations.

11.4 Notwithstanding, nothing in this Agreement is intended to convey rights in Consultant's pre-existing intellectual property or affect Consultant's right to use Generic Know-How learned in the course of providing services under this Agreement for the future benefit of District or others.

## **12. Termination.**

### **12.1 Termination for Cause.**

In addition to any other provision in this Agreement allowing a Party to terminate this Agreement, and without limiting any other remedies available at law, in equity, or under this Agreement, if either Party materially or repeatedly defaults in the performance of any of its duties or obligations under this Agreement, and: (1) within thirty (30) Days after written notice is given to the defaulting Party specifying the default, it is not cured to the reasonable satisfaction of the Party giving the notice of default, or (2) with respect to those defaults that cannot reasonably be cured within thirty (30) Days, if the defaulting Party fails to commence curing the default within fifteen (15) Days after receipt of the notice of default, and to continue proceeding with all due diligence to cure the default, then the Party not in default may terminate this Agreement by giving written notice of termination to the defaulting Party, which termination shall be effective immediately upon receipt of the notice of termination. If the default is incapable of being cured, then the foregoing cure period shall not apply, and notice of termination may be given directly and immediately by the Party not in default. If District terminates for cause, it will pay for all undisputed Services to the date of termination less amounts that District may withhold pursuant to Section 9.6 hereof. Payment of disputed amounts shall be subject to the dispute resolution provisions of this Agreement.

### **12.2 Termination for Other than Cause.**

Notwithstanding any other provision of this Agreement, the District may terminate this Agreement in its entirety upon thirty (30) Days' written notice to Consultant. Within thirty (30) Days after the effective date of such termination, District shall pay Consultant for Services and Additional Services performed and accepted as of the date of termination; provided, however, that (1) the total compensation payable by District for Basic Services Fees shall not exceed the product of (a) the percentage of Services properly performed multiplied times (b) the Maximum Price and (2) the total compensation payable by District for any Additional Services shall not exceed the product of (a) the percentage of such Additional Services properly performed multiplied times (b) the agreed maximum or lump sum price for such Additional Services. In addition to the foregoing, the District shall have the right, in its sole reasonable discretion, to delete any portion of the Services in which case the Maximum Price shall be proportionally reduced by the reasonable value of the deleted Services. Consultant agrees to accept the payments provided for under this Section 12.2 as its sole and exclusive right and remedy in lieu of all other rights and claims that Consultant may have under this Agreement or Applicable Laws for recovery of losses or damages, including, without limitation, losses or damages associated with lost profits, lost opportunity, and other consequential, special, or incidental damages.

12.3 Consultant's Cooperation in the Event Of Termination.

In the event the District terminates this Agreement for cause or without cause and the District thereafter appoints a third party contractor to perform any of the Services which originally were to be performed by Consultant, Consultant shall fully cooperate with the District in the transition to a third party consultant. Such cooperation shall include, but shall not be limited to, providing parallel services until the District's transition is completed. In the event such transition services are requested by District, Consultant agrees to provide such services for a period not to exceed sixty (60) Days (unless the Parties agree to a longer period of time), and Consultant shall be paid at the Contract Hourly Rates for such services, unless such transition of services is necessitated as a result of a termination of this Agreement due to a default by Consultant, in which case such services shall be provided at the expense of the Consultant and without charge to District.

**13. Insurance And Indemnity.**

13.1 Required Insurance Coverages.

Without limiting Consultant's indemnification of District as provided herein and as a material condition of this Agreement, the Consultant shall obtain, pay for, and maintain in full force and effect during the Term of this Agreement insurance with limits, coverages, terms, and conditions at least as broad as shown below:

A. Workers' compensation and employer's liability insurance on a state-approved policy form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 per accident for all covered losses;

B. Commercial general liability insurance with coverage at least as broad as provided by Insurance Services Office form CG 00 01 with limits not less than one million dollars (\$1,000,000) per occurrence, two million (\$2,000,000) annual aggregate;

C. Business auto liability insurance with coverage at least as broad as provided by Insurance Services office form CA 00 01 with limits not less than one million dollars (\$1,000,000) combined single limit, including owned, non-owned, and hired autos;

D. Excess or umbrella liability following form to the above liability coverages, including employer's liability, with limits no less than four million dollars (\$4,000,000) per occurrence and annual aggregate;

E. Professional Liability Insurance (Errors and Omissions) covering activities and services as provided under this Agreement with limits not less than ten million dollars (\$10,000,000) per occurrence and annual aggregate.



F. Cyber Liability Insurance covering activities and services as provided under this Agreement, including liability for any data breach or vulnerability caused by Consultant's activities or services, with limits no less than five million dollars (\$5,000,000) per occurrence and annual aggregate.

G. Consultant will provide District with a certificate of insurance for any subcontractor for District's approval prior to the Subconsultant's provision of services for District.

### 13.2 Claims Made Coverages.

To the extent any insurance coverage required under this Section 13 is purchased on a "claims- made" basis, such insurance shall cover all prior acts of Consultant and such insurance shall be continuously maintained until at least three (3) years beyond the expiration of the Term of this Agreement, or Consultant shall purchase "tail" coverage, effective upon termination of any such policy or upon expiration of the Term of this Agreement, to provide coverage for at least one (1) year from the occurrence of either such event.

### 13.3 Evidence of Insurance.

Consultant agrees to provide evidence of the insurance required herein, satisfactory to District, consisting of the following: (1) certificate(s) of insurance evidencing all of the coverages required and (2) an additional insured endorsement to Consultant's general liability policy naming the District and the other District indemnitees listed in Section 13.6, A, hereof. Consultant agrees, upon request by District to provide complete, certified copies of any policies required within ten (10) Days of such request. Any actual or alleged failure on the part of District or any other additional insured under these requirements to obtain proof of insurance required under this Agreement in no way waives any right or remedy of District or any additional insured, in this or in any other regard.

### 13.4 Cancellation Or Lapse Of Insurance.

Consultant shall give thirty (30) Days' prior written notice by certified mail, return receipt requested, to District of cancellation, non-renewal, or material change in coverage, scope, or amount of any policy. Should Consultant fail to keep in effect at all times the insurance coverages required under this Section 13, District may, in addition to and cumulative with any other remedies available at law, equity, or hereunder withhold payments to Consultant required under this Agreement in an amount sufficient to procure the insurance required herein.

### 13.5 Other Insurance Requirements.

Insurance policies required hereunder, except professional liability, shall be issued by insurance companies (1) authorized to do business in the State of California, and (2) with an A.M. Best rating no lower than A-: VI. Upon written request by District, Consultant will provide to District policy extracts and policy form numbers to clarify an insurance certificate or as otherwise needed in the course of District's business activities. District shall be added as an insured on the commercial general liability insurance policy.

### 13.6 Indemnity for Injury to Persons and Tangible and Intangible Property.

#### A. Consultant's Indemnity.

At Consultant's expense as provided herein, Consultant agrees to defend, indemnify, and hold harmless District and its Users, Board of Trustees, directors, officers, agents, employees, members, subsidiaries, joint venture partners, and predecessors and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees, arising out of or relating to any alleged act or failure to act by Consultant or a Subconsultant, or its/their directors, officers, agents or employees, including, without limitation, (1) negligent or willful misconduct that is alleged to cause any injury to any person or persons or damage to tangible or intangible property, or (2) breach the provisions of Section 15 (Ownership And Non-Disclosure Of Proprietary Or Confidential Information) hereof relating to Consultant's use of confidential information owned or controlled by District, including, but not limited to, by paying all amounts that a court finally awards or that are agreed to in settlement, as well as any and all expenses or charges as they are incurred by District or any other party indemnified under this Section 13.6, A; provided, however, that to qualify for such defense and payment, District must: (1) give Consultant prompt written notice thereof; and (2) allow Consultant to control, and fully cooperate with Consultant in, the defense and all related negotiations. The Consultant's indemnification obligation under this Section 13.6, A, shall not be limited by the amount or type of damages, compensation or benefits payable under any policy of insurance, workers' compensation acts, disability benefit acts or other employee benefit acts.

#### B. District's Indemnity.

At District's expense as described herein, District agrees to defend, indemnify, and hold harmless Consultant, its partners, principals, agents and employees, from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees, arising out of District's sole negligence or willful misconduct, alleged to cause any injury to any person or persons or damage to tangible or intangible property by paying all amounts that the court finally awards, or that District agrees to in settlement, as well as any

and all expenses or charges as they are incurred by Consultant or any other party indemnified under this Section 13.6, B; provided, however, that to qualify for such defense and payment, Consultant must: (1) give District prompt written notice thereof; and (2) allow District to control, and fully cooperate with District in, the defense and all related negotiations. The District's indemnification obligation under this Section 13.6, B, shall not be limited by the amount or type of damages, compensation or benefits payable under any policy of insurance, workers' compensation acts, disability benefit acts or other employee benefit acts.

#### 13.7 Damage to District Facilities, Buildings, or Grounds.

Consultant shall repair, or cause to be repaired, at its own cost and without charge to or reimbursement by District, any and all damage to District's facilities, buildings or grounds caused by Consultant or employees or agents of Consultant. Consultant shall make required repairs within thirty (30) Days after becoming aware of such damage, or prepare a plan to do so which is reasonably acceptable to District. If Consultant fails to make timely repairs, District may make any necessary repairs. All reasonably necessary costs incurred by District for such repairs shall be repaid by Consultant by cash payment upon demand, or without limitation of all District's other rights and remedies provided by law or under this Agreement, District may deduct such costs from any amounts due to Consultant from District under this Agreement.

#### 13.8 Proprietary Rights Indemnity.

At Consultant's expense as described herein, Consultant agrees to defend, indemnify, and hold harmless District and its Users, Board of Trustees, directors, officers, agents, employees, members, subsidiaries, and predecessors and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees as provided herein, arising out of any claim that the Intellectual Property infringes upon or otherwise violates any copyright, trade secret, trademark, service mark, patent, invention, proprietary information, or other rights of any third party, that (collectively referred to for purposes of this Section as "Infringement Claim(s)") by paying all amounts that a court finally awards or that Consultant agrees to in settlement of such Infringement Claim( s) as well as any and all expenses or charges arising from such Infringement Claim(s) (including attorneys fees) as they are incurred by District or any other Party indemnified under this Section. District also agrees that, if the Intellectual Property or any part thereof, becomes, or in Consultant's opinion is likely to become, the subject of an infringement Claim(s), District will permit Consultant, at Consultant's option and expense for all associated costs, either to procure the right for District to continue to use the Intellectual Property or part thereof, or to replace or modify the Intellectual Property with another item of comparable quality and performance capabilities to become non-infringing, provided such replacement or modification does not cause the Websites or any portion thereof, or any District business process to fail to conform to the Website specifications or business process design, as applicable. In the event District's ongoing use of the Intellectual Property or any part of it, is the subject of any act by a third party arising from an infringement Claim that would preclude or impair District's use of the Intellectual Property, the Platform or the or Websites, or portion thereof (e.g. injunctive relief), or if District's continued use of the intellectual Property or any

portion thereof may subject it to punitive damages or statutory penalties, District shall give written notice to Consultant of such fact(s). Upon notice of such facts, Consultant shall procure the right for District to continue to use the Intellectual Property or any portion thereof, or replace or modify the Intellectual Property with another system or components of comparable quality and performance capabilities to become non-infringing. If neither action is commercially reasonable, Consultant shall refund to District amounts paid for the infringing work product. For avoidance of doubt, the parties state here that they understand that Consultant is offering this indemnification as to its own work product only and makes no warranties and undertakes no indemnification obligations with regard to third party software.

#### 13.9. Data Security Indemnity.

In addition to Consultant's indemnity obligations set forth in this Agreement, for the avoidance of doubt regarding a breach involving Proprietary Information that involves personally identifiable information, Consultant's indemnification obligations under this Agreement will include the following fees and costs which arise as a result of a breach caused by Consultant's negligent acts or omissions, or willful misconduct: any and all costs associated with notification to individuals or remedial measures offered to individuals, whether or not required by law, including but not limited to costs of notification of individuals; establishment and operation of call center(s); credit monitoring and/or identity restoration services; time of the District's Personnel responding to a breach; fees and costs incurred in litigation; the cost of external investigations; civil or criminal penalties levied against the District; civil judgments entered against the District; attorney's fees, and court costs.

#### 13.10 Indemnities Throughout Agreement.

It is understood and agreed by the parties that Consultant's indemnification obligations are set forth throughout this Agreement and are not confined to this Section 13 (Insurance and Indemnity).

### **14. Intellectual Property.**

#### 14.1 Disclosure and Assignment of Intellectual Property.

Except for those items of Intellectual Property identified in Exhibit "H" – Excluded Items attached hereto, subject to amendment by the parties, Consultant hereby assigns and agrees to assign, and District accepts and agrees to accept, all rights, title, and interest in and to all Intellectual Property, made or conceived, or actually or constructively reduced to practice, whether solely by Consultant or jointly with others, to the extent such Intellectual Property is incorporated into the work product of Consultant that is provided to District (hereafter referred to as "Embedded Intellectual Property"). Consultant further agrees to provide, and agrees to cause its employees, agents, and Subconsultants to provide, to District all reasonable assistance to enable District to perfect, for the benefit of District, all rights in Embedded Intellectual Property. Such assistance shall include, but not necessarily be limited to, (i) signing patent and copyright

applications, oaths or declarations, and grants, assignments, and acknowledgments. in favor of District, as well as such ancillary and confirmatory documents as may be required or appropriate, to insure that title in Embedded Intellectual Property is clearly and exclusively vested in District, within the United States and any and all foreign countries, and (ii) upon the reasonable request of District, furnishing all relevant information and documentation in the possession of Consultant and not otherwise reasonably available to District, including information and documentation required by District for submission to the United States Patent and Trademark Office and/or to the United States Copyright Office. Upon adequate notice by District, Consultant also shall make available to District, at reasonable times and places for interviewing purposes, necessary employees or agents of Consultant, in order that District might obtain information relating to the application for and prosecution of rights in Embedded Intellectual Property. Consultant also agrees to secure from such of its employees, agents, or Subconsultants, to the extent necessary and upon the request of District, the assignment of the above-mentioned rights in Intellectual Property, as well as the execution of all papers submitted relating to the application for and prosecution of such rights. Consultant's obligations herein shall survive this Agreement. To the extent Intellectual Property which is not Embedded Intellectual Property is utilized by Consultant in providing the services under this Agreement, including, but not limited to Intellectual Property incorporated into the Websites, Consultant grants to District an irrevocable, nonexclusive, perpetual, worldwide, paid-up license to use such Intellectual Property, including the Excluded Items, for its business purposes within its organization and to prepare derivative works based on such Intellectual Property for its business purposes within its organization. District acknowledges that a failure of the Parties to agree in good faith to add additional Excluded Items to those included in Exhibit "H" – Excluded Items attached hereto may result in a delay in Implementation.

#### 14.2 Derivative Rights.

A. Consultant represents and warrants that it has or will have the right, through written agreement, or otherwise, with its employees or District approved consultants, to secure for District the rights in Embedded Intellectual Property called for herein. Further, in the event Consultant utilizes, with the consent of District, any agent, including any Subconsultant, consultant, or other third party, to perform any of the services contracted for by this Agreement, Consultant agrees to enter into such agreements with such third party, and to take such other steps as are or may be required to secure for District the rights called for herein. Consultant agrees to indemnify District from and against any losses, expenses or liabilities incurred by District as a consequence of Consultant's failure or inability to secure for District such rights.

B. To the extent necessary to vest in District the rights in Embedded Intellectual Property contemplated by this Agreement, Consultant hereby agrees to and does hereby assign to District any cause of action or any rights, arising under agreements or otherwise, that Consultant may have against any of its employees, agents, or Subconsultants, which rights enable or purport to enable Consultant to obtain from its employees, agents, or Subconsultants, ownership, licenses or other interests in Intellectual Property created by such employees or agents in the course of work performed for or services rendered to District under this Agreement. In

addition, Consultant hereby consents to any assignment or other grant or transfer to District by employees, agents, or Subconsultants utilized by Consultant of ownership, licenses, or other interests in such Embedded Intellectual Property.

#### 14.3 Works Made For Hire.

In addition to rights granted by Consultant to District elsewhere in this Agreement, the following interests in copyright shall vest in District:

A. All Creative Works that are first created and prepared by Consultant under this Agreement that are covered by the definition of a "work made for hire" under 17 U.S.C. § 101 of the U.S. Copyright Act of 1976 will be considered a "work made for hire", and District will be deemed the sole author and owner of all copyrights in any such works.

B. With respect to all Creative Works that are first created and prepared by Consultant under this Agreement that are not covered by the definition of a "work made for hire" under 17 U.S.C. § 101 of the U.S. Copyright Act of 1976, such that Consultant would be regarded as the copyright author and owner, Consultant hereby assigns and agrees to assign to District, and District accepts and agrees to accept, Consultant's entire right, title, and interest in and to such works, including all copyrights therein.

C. Consultant further agrees to execute, or cause to be executed by its employees, agents, or Subconsultants, whatever assignments of copyright and ancillary and confirmatory documents that may be required or appropriate so that title to any Creative Works under (A) and (B) above and to the copyright therein will be clearly and exclusively held by District or any nominee thereof.

#### 14.4 Knowledge Transfer.

Consultant shall transfer to District Generic Know-How with respect to the functions, modules, operation and support and maintenance of the Websites and all of its components.

### **15. Ownership And Non-Disclosure Of Proprietary Or Confidential Information.**

#### 15.1 Non-disclosure and Non-use.

Subject to any state or federal laws requiring disclosure (e.g., the California Public Records Act), the parties agree, both during the term of this Agreement and after termination or expiration of this Agreement to hold each other's Proprietary or Confidential

Information in strict confidence in perpetuity. The parties agree not to make each other's Proprietary or Confidential Information available in any form to any third party or to use each other's Proprietary or Confidential Information for any purpose other than the implementation of and as specified in this Agreement. Without limitation on Section 15.5 (Equitable Relief) hereof, each Party agrees to take all reasonable steps to ensure that Proprietary or Confidential Information of either Party is not disclosed or distributed by its employees, agents or consultants in violation of the provisions of this Agreement, and District also agrees to take all such steps with respect to any Users of the Websites.

## 15.2 Ownership.

Except as provided in Section 14 (Intellectual Property) hereof, Consultant's Proprietary or Confidential Information shall remain the sole and exclusive property of Consultant. District's Proprietary or Confidential Information shall remain the sole and exclusive property of District. Neither Party shall have an interest in, nor the right to use, including, without limitation, any use resulting in disclosure to any third party of any Proprietary or Confidential Information, except as specifically provided for by this Agreement or as otherwise permitted and specified by separate written license agreement executed by both Parties hereto.

## 15.3 Ownership of Custom Programming and Deliverables.

District shall be the sole and exclusive owner of all custom programming deliverables, (included but not limited to, design documentation, business requirements, blueprint specifications, interface specifications, customization plans, report formats, configuration documentation, project status reports) and all intellectual property rights to such custom programming deliverables, except in very limited circumstances where the such items include the Confidential Information of the Consultant. Specifically, ownership of the custom programming deliverables and any portion thereof shall inure to the benefit of District from the date of conception, creation, or fixation of the custom programming and deliverables in a tangible medium of expression (whichever occurs first). Each copyrightable aspect of the custom programming and deliverables shall be considered a “work-made-for-hire” within the meaning of the Copyright Act of 1976, as amended. If and to the extent such custom programming and deliverables, or any part thereof or intellectual property rights therein or thereto, are not considered to be a “work-made-for-hire” within the meaning of the Copyright Act of 1976, as amended, Consultant irrevocably and unconditionally expressly assigns and agrees to assign to District all exclusive right, title, and interest in and to such custom programming and deliverables, any and all portions thereof, and any and all intellectual property rights there in and thereto, without further consideration, free from any claim, lien for balance due, or rights of retention thereto on part of the Consultant. Consultant acknowledges that the parties do not intend Consultant to be joint author (within the meaning of the Copyright Act of 1976, as amended) of any custom programming and deliverables, and that Consultant shall in no event be deemed the joint author of any custom programming and deliverables.

#### 15.4 Employees.

Each Party shall ensure that its employees, agents and consultants shall be permitted access to the other Party's Proprietary or Confidential Information only on a need-to-know basis and are instructed regarding, and agree in writing to act in accordance with, the obligations of nondisclosure and non-use imposed by this Agreement. If requested by District, Consultant shall be required to have its employees complete and sign a Confidentiality Agreement with District in a form provided in advance to Consultant such that Consultant has sufficient time to review and comment upon same.

#### 15.5 Equitable Relief.

Each Party acknowledges that any use or disclosure of the other Party's Proprietary or Confidential Information other than as specifically provided for in this Agreement and other written agreements between Consultant and District may result in irreparable injury and damage to the non-using or non-disclosing Party. Accordingly, each Party hereby agrees that, in the event of use or disclosure by the other Party other than as specifically provided for in this Agreement and in other written agreements between the parties, the non-using or non-disclosing Party may be entitled to equitable relief as granted by any appropriate judicial body.

#### 15.6 Proprietary or Confidential Markings.

Each Party expressly agrees to include, maintain, reproduce and perpetuate all notices or markings on all copies of all tangible media comprising each Party's Proprietary or Confidential Information in the manner in which such notices or markings appear on such tangible media or in the manner in which either party may reasonably request.

#### 15.7 District's Data.

All of the District content, data, records, and information processed by or input onto the Platform and incorporated into the Websites, or otherwise provided to Consultant under this Agreement, shall be and remain the property of District and District shall retain exclusive rights and ownership thereto. The content or data of District shall not be used by Consultant for any purpose other than as required under this Agreement, nor shall such data or any part of such data be disclosed, sold, assigned, leased or otherwise disposed of to third parties by Consultant or commercially exploited or otherwise used by or on behalf of Consultant, its officers, directors, employees, or agents.



**16. [Intentionally Deleted]**

**17. Subconsultants.**

17.1 Consent Required.

District has relied, in entering into this Agreement, on the reputation of Consultant and on obtaining the personal performance of Consultant. Consequently no performance of this Agreement, or any portion thereof, shall be subcontracted by Consultant without the prior written consent of District as provided in this Section. Such approval shall be deemed provided as to any Subconsultant that has been fully disclosed Exhibit "G" – RFP Proposal attached hereto. Any subcontract entered into by Consultant for any performance, obligation, or responsibility under this Agreement, without the prior written approval or such deemed approval of District, shall constitute a material breach of this Agreement, upon which District immediately may terminate this Agreement for cause.

17.2 Subconsultant Approval Process.

If Consultant desires to subcontract any portion of its performance, obligations, or responsibilities under this Agreement to a Subconsultant that has not been disclosed in Exhibit "G" – RFP Proposal attached hereto, it shall make a written request to District for written approval to enter into the particular subcontract. Consultant's request to District shall include:

- A. The reason(s) for the particular subcontract.
- B. A detailed description of the work to be performed by the proposed Subconsultant.
- C. Identification of the proposed Subconsultant and an explanation of why and how the proposed Subconsultant was selected.
- D. Evidence in writing that the Subconsultant assumes and agrees to be bound by provisions which parallel the intent, terms and conditions of this Agreement.
- E. Any other information and/or certifications reasonably requested by District to determine their qualifications. District will review Consultant's request to subcontract and determine, in its sole and absolute discretion, whether or not to consent to such request on a case-by-case basis.

17.5 Indemnification for Acts of Subconsultants.

Consultant shall indemnify, defend, and hold harmless District, its Board of Trustees, officers, employees, and agents, from and against any and all claims, demands, liabilities, damages, costs, and expenses, including, but not limited to, defense costs and legal, accounting or other expert consulting or professional fees in any way arising from or related to Consultant's use of any Subconsultant in the same manner and to the same degree it would be required to indemnify were the Subconsultant the Consultant's own employee.

17.6 Supervision of Subconsultants.

Notwithstanding any District consent to any subcontracting, Consultant shall remain responsible for any and all performance required of it under this Agreement, including, but not limited to, the obligation to properly supervise, coordinate, and perform, all work required hereunder, and no subcontract shall bind or purport to bind District.

17.7 Approval of Subconsultant Personnel.

In the event that District consents to any subcontracting such consent shall be subject to District's right to give prior and continuing approval of any and all Subconsultant's personnel providing professional services which consent will not be unreasonably withheld or unreasonably disapproved by District. Subconsultant personnel whose identities and qualifications have been fully disclosed by Consultant in Exhibit "G" – RFP Proposal attached hereto are deemed approved by District. Consultant shall assure that any such Subconsultant employee reasonably disapproved by District, shall be immediately removed from the provision of any Services or that other reasonable action is taken as requested by District. District shall not be liable or responsible in any way to Consultant, to any Subconsultant, or to any officers, employees, or agents of Consultant or any Subconsultant, for any claims, demands, damages, liabilities, losses, costs, or expenses, including, but not limited to, defense costs and legal, accounting and other expert, consulting or professional fees, in any way arising from or related to any subcontract under this Agreement. Consultant agrees that all Subconsultant staff assigned to perform work under this Agreement must have experience with support work similar in nature as that requested by District in which they were responsible for performing the tasks to which they will be assigned under this Agreement. District approval of any subcontract shall not be construed to limit in any way Consultant's performance, obligations, or responsibilities, to District, nor shall such approval limit in any way any of District's rights or remedies contained in this Agreement.

17.9 No Consent Waiver.

In the event that District consents to any subcontracting, such consent shall apply to each particular subcontract only and shall not be, or be construed to be, a waiver of this Section or a blanket consent to any further subcontracting.

17.10 Payments to Subconsultant.

Consultant shall be solely liable and responsible for any and all payments and other compensation to all Subconsultants and their officers, employees, and agents. District shall have no liability or responsibility whatsoever for any payment or other compensation for any Subconsultants or their officers, employees, and agents.

**18. Assignment.**

This Agreement shall not be assigned by either Party without the prior written consent of the other except that this Agreement may be assigned in whole or in part by District, without the further consent of Consultant, to any third party for District's business purposes, provided such third party agrees in writing to perform District's obligations under this Agreement and Consultant may assign its right to payment by giving written notice to District. In all other circumstances, District shall obtain Consultant's consent to an assignment, which consent shall not be unreasonably withheld.

**19. Modification.**

No alteration, amendment, or modification of the terms of this Agreement shall be valid or effective unless in writing and signed by Consultant and District. Any material modification of this Agreement shall not be binding on District unless approved by District's Board of Trustees.

**20. Waiver.**

All waivers under this Agreement shall be in writing in order to be effective. No waiver by a Party of any breach of this Agreement or waiver of any warranty, representation, or other provision hereunder shall be deemed to be a waiver of any other breach, warranty, representation, or provision (whether preceding or succeeding, and whether or not of the same or similar nature), and no acceptance of performance by a Party after any breach by the other Party shall be deemed to be a waiver of any breach of this Agreement or of any representation, warranty, or other provision, whether or not the Party accepting performance knows of such breach at the time of acceptance. No failure or delay by a Party to exercise any right it may have by reason of the default of the other Party shall operate as a waiver of default or modification of this Agreement or shall prevent the exercise of any right of the non-defaulting Party under this Agreement.

**21. Independent Consultant.**

Consultant acknowledges that it is at all times acting as an independent consultant under this Agreement and except as specifically provided herein, not as an agent, employee, or partner of District. Consultant agrees to be solely responsible for all matters relating to

compensation of its employees, including but not limited to compliance with laws governing workers' compensation, Social Security, withholding and payment of any and all federal, state and local personal income taxes, disability insurance, unemployment, and any other taxes for such persons, including any related employer assessment or contributions required by law, and all other regulations governing such matters, and the payment of all salary, vacation and other employee benefits. At Consultant's expense as described herein, Consultant agrees to defend, indemnify, and hold harmless District, its Board of Trustees, officers, agents, employees, members, subsidiaries, joint venture partners, and predecessors and successors in interest from and against any claim, action, proceeding, liability, loss, damage, cost, or expense, including, without limitation, attorneys' fees as provided herein arising out of Consultant's alleged failure to pay, when due, all such taxes and obligations (collectively referred to for purposes of this Section as "Employment Claim(s)"). Consultant shall pay to District any expenses or charges relating to or arising from any such Employment Claim(s) as they are incurred by District.

## **22. Non-Discrimination.**

### 22.1 General.

The Consultant hereby certifies that in performing work or providing Services and Additional Services for District, there shall be no discrimination in its hiring, employment practices, or operation because of sex, race, religious creed, color, ancestry, national origin, physical disability, mental disability, medical condition, marital status, or sexual orientation, except as provided for in Section 12940 of the Government Code. The Consultant shall comply with applicable federal and California anti-discrimination laws, including but not limited to, the California Fair Employment and Housing Act, beginning with Section 12900 of the California Government Code, the provisions of the Civil Rights Act of 1964 (Pub. L. 88-352; 78 Stat. 252) and Title IX of the Education Amendments of 1972 (Pub. L. 92-318) and the Regulations of the Department of Education which implement those Acts. The Consultant agrees to require, compliance with this nondiscrimination policy by all Subconsultants employed in connection with this Agreement.

### 22.2 Employment.

Consultant shall take affirmative action to ensure that employment applications are accepted and that employees are treated during employment without regard to their race, color, religion, age, sex, sexual orientation, ancestry, handicap or national origin. Such action shall include, but may not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Consultant shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the State setting forth the provisions of the Fair Employment Practices Act.

### 22.3 Civil Rights Act.

Consultant shall comply with Subchapter VI of the Civil Rights Act of 1964, United States Code Section 2000 e (17), to the end that no person shall, on the grounds of race, creed, color, sex, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to 4 is under this Agreement or under any project, program, or activity supported by this Agreement.

### 22.4 Section 504 of the Rehabilitation Act of 1973.

Consultant shall comply with Section 504 of the Rehabilitation Act of 1973 with regard to federal financial assistance administered by the Department of Health and Human Services and the Americans with Disabilities Act ("ADA") of 1990; and other applicable nondiscrimination laws.

## **23. Compliance with Law.**

Consultant shall comply with all applicable federal, state, and local laws, statutes, ordinances, rules, regulations, policies (including those policies relating to the prevention of sexual harassment), and procedures in performing services under this Agreement.

## **24. Audit, Inspection, and Examination Of Records.**

### 24.1 Maintenance of Books and Records.

Consultant shall maintain accurate and complete financial records of its activities and operations relating to this Agreement in accordance with generally accepted accounting principles. Consultant shall also maintain accurate and complete employment and other records relating to its performance of this Agreement. Consultant agrees to grant District and District's authorized representatives the right upon ten (10) Days' advance notice to audit and inspect Consultant's use of any Proprietary Information provided or obtained pursuant to this Agreement, as well as Consultant's compliance with the terms of Section 11 hereof. Upon District's request and at District's cost, Consultant agrees to deliver a report to District evidencing Consultant's usage of the Proprietary Information and steps taken to protect such information.

### 24.2 Audits by District.

Consultant agrees that District, or its external authorized and licensed representatives, shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transaction, activity, or records relating to this Agreement provided such access

rights do not constitute an unlawful invasion of the privacy rights of any Consultant employee and would not in the reasonable opinion of Consultant subject Consultant to legal liability. All such material, including, but not limited to, all financial records time records and other employment records shall be kept and maintained by Consultant and shall be made available to District for a period of two (2) years following expiration of the Term of this Agreement unless District's written permission is given to dispose of any such material prior to such time.

#### 24.3 Audit Settlements.

If, at any time during or after the expiration of the Term of this Agreement, District or its external authorized and licensed representatives conduct an audit of Consultant regarding the work performed under this Agreement, and if such written audit, provided to and reviewed with Consultant, finds that District's dollar liability for any such work is less than payments made by District to Consultant, then the difference shall be either repaid by Consultant to District by cash payment upon demand or, at the sole option of District, deducted from any amounts due to Consultant from District, whether under this Agreement or otherwise. If such audit finds that District's dollar liability for such work is more than the payments made by District's payments to Consultant exceed the amounts authorized by this Agreement. The cost of the audit will be borne by District unless the audit reveals that the payments made to Consultant exceed the actual amounts owed to Consultant by five percent (5%), at which time Consultant shall pay all of District's reasonable expenses related to the audit authorized by this Section 24.3.

### **25. Interpretation of Agreement.**

#### 25.1 Governing Law.

This Agreement shall be deemed to have been executed and delivered within the State of California, and the rights and obligations of the Parties hereunder, and any action arising from or relating to this Agreement, shall be construed, interpreted and enforced in accordance with, and governed by, the laws of the State of California, without giving effect to conflict of laws principles.

#### 25.2 Venue.

Any action or proceeding arising out of or relating to this Agreement shall be brought in the county of Los Angeles, State of California, and each Party hereto irrevocably consents to such jurisdiction and venue as the exclusive jurisdiction and venue, and waives any claim of inconvenient forum. Each Party waives any right it may have to assert the doctrine *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this Section.

### 25.3 Interpretation.

In the event of any irreconcilable conflict or inconsistency between the body of this Agreement and its exhibits, the former shall govern. In the event of a conflict in the standards or requirements applicable to performance of the Services that are set forth in this Agreement or any exhibit, the Consultant shall be bound to perform according to the higher of such conflicting standards or requirements.

### 25.4 Agreement Drafted By All Parties.

This Agreement is the result of arm's length negotiations between the Parties and shall be construed to have been drafted by all Parties such that any ambiguities in this Agreement shall not be construed against either Party.

### 25.5 Terminology.

All personal pronouns used herein, whether used in the feminine, masculine, or neuter gender, shall include all other genders, and the singular shall include the plural and *vice versa*.

### 25.6 Section Headings.

The section headings contained herein are for convenience in reference and are not intended to define or limit the scope of any provision of this Agreement.

### 25.7 Counterparts.

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the Parties as of the Reference Date at such time as all the signatories hereto have signed a counterpart of this Agreement.

## **26. Notices.**

Any notices required or permitted to be given hereunder by either Party to the other shall be given in writing: (1) by personal delivery; (2) by electronic facsimile with confirmation sent by United States first class registered or certified mail, postage prepaid, return receipt

requested; (3) by bonded courier or by a nationally recognized overnight delivery company; or (4) by United States first class registered or certified mail, postage prepaid, return receipt requested, in each case, addressed to the Parties as follows (or to such other addresses as the Parties may request in writing by notice given pursuant to this Section):

To: District

Los Angeles Community College District 770 Wilshire Boulevard  
Los Angeles, California 90017

Attn: \_\_\_\_\_  
(213) 891-\_\_\_\_ (voice)  
(213) 891-\_\_\_\_ (facsimile)

With a copy to:

Los Angeles Community College District 770 Wilshire Boulevard  
Los Angeles, California 90017

Attn: \_\_\_\_\_  
(213) 891-\_\_\_\_ (voice)  
(213) 891-\_\_\_\_ (facsimile)

To: Consultant

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Notices shall be deemed received on the earliest of personal delivery, upon delivery by electronic facsimile with confirmation from the transmitting machine that the transmission was completed, twenty-four (24) hours following deposit with a bonded courier or overnight delivery company; or seventy-two (72) hours following deposit in the U.S. Mail as required herein.

**27. Entire Agreement.**

This Agreement, along with all its exhibits, contains the entire agreement between Consultant and District with respect to the subject matter of this Agreement, and it supersedes all other prior and contemporary agreements, understandings, and commitments between Consultant and District with respect to the subject matter of this Agreement.



**28. Equal Opportunity Employer.**

The Consultant, in the execution of this Agreement, certifies that it is an equal employment opportunity employer.

**29. Attorneys' Fees and Costs.**

If either Party shall bring any action or proceeding against the other Party arising from or relating to this Agreement, each Party shall bear its own attorneys' fees and costs, regardless of which Party prevails.

**30. Board Authorization.**

The effectiveness of this Agreement is expressly conditioned upon approval by District's Board of Trustees.

**31. Severability.**

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

**32. Conflicts of Interest.**

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

**33. Dispute Resolution**

33.1 Administrative-Level Review.

If a arises between the Parties dispute relating to the Agreement or to the performance of non-performance of the Agreement by either Party, whether founded on a

violation of a legal duty that sounds in contract, tort, or otherwise, (“Dispute”) Consultant’s Project Manager and District’s Project Lead shall meet and attempt to resolve the Dispute within ten (10) Days of either Party referring the Dispute to the other. If the Parties are unable to resolve the Dispute within such 10-Day period, either Party may request that the Dispute be elevated to the Executive Level described below.

### 33.2 Executive-Level Review.

For Disputes which are not resolved at the Administrative Level, and only after such review has been attempted, Consultant’s General Manager, and District’s Vice Chancellor of Finance shall meet and attempt to resolve the Dispute within ten (10) Days of either Party referring the Dispute to the other. If the Parties are unable to resolve the Dispute within such 10-Day period, either Party may request that the Dispute be referred to Mediation as described below.

### 33.3 Non-Binding Mediation.

For Disputes which are not resolved following Administrative and Executive-Level Review, the dispute shall be referred to non-binding Mediation administered by JAMS Los Angeles, with an actual Mediation taking place no later than the thirtieth (30<sup>th</sup>) Day after either Party has filed a request to mediate the Dispute with JAMS Los Angeles. The Parties shall mutually select a mediator, attempting whenever possible to select a mediator experience in enterprise information systems and systems of higher education. Consultant’s General Manager and District’s Vice Chancellor of Finance shall be present at the Mediation, and all persons with relevant information regarding the Dispute must either attend the Mediation or be available by telephone. Any representative of either Party whose authority is required to resolve the Dispute shall also attend the Mediation, subject only to any resolution or agreement which would be subject to a public notice requirement or otherwise require action by District’s Board of Trustees. If the Parties are unable to resolve the Dispute following the Mediation, or if absent mutual agreement the Parties are unable mediate the Dispute within thirty (30) Days of the referral to Mediation, either Party may proceed forward to seek resolution of the Dispute as hereinafter provided.

### 33.4 Binding Arbitration.

Upon either the District or Consultant declaring in writing the end of the Mediation conducted in accordance with foregoing provisions, the Party wishing to further pursue resolution or determination of the Dispute shall submit the dispute for final and binding arbitration administered by JAMS Los Angeles with the intent of having a written decision issued by a single arbitrator within one hundred and twenty (120) Days from the date of filing, as follows.

(A) Arbitration Initiation. The arbitration shall be initiated by filing a complaint in arbitration with JAMS Los Angeles. Any responsive pleadings must be filed within thirty (30) Days of the initial filing. All costs of the arbitration shall be shared equally by the Parties.

(B) Qualifications of the Arbitrator. The arbitrator shall be selected based on mutual agreement of the Parties within fifteen (15) Days of the filing of the first responsive pleading. If the Parties are unable to agree upon the selection of an arbitrator within such time, the case administrator at JAMS Los Angeles shall select an arbitrator qualified to address the dispute. The arbitrator shall be a retired judge or an attorney with at least five (5) years of experience with public contract law and have some background in information technology/software implementation disputes.

(C) Hearing Days and Location. Arbitration hearings shall be conducted on consecutive business days, without interruption or continuance. Arbitration hearings shall not be delayed, continued or postponed except upon good cause shown or stipulation of the parties to the arbitration. All hearings to receive evidence shall be recorded by a certified stenographic reporter, with the costs thereof borne equally by the District and the Consultant and allocated by the arbitrator in the final award.

(D) Discovery: The Parties will have the right to discovery in accordance with Section 1283.05 of the California Code of Civil Procedure.

(E) Authority of the Arbitrator. The arbitrator shall have the authority to hear dispositive motions and issue interim orders and interim or executory awards.

### 33.5 Equitable Relief.

Notwithstanding anything contained in the Agreement to the contrary, the Parties shall be entitled to seek injunctive or other equitable relief whenever the facts or circumstances would permit a Party to seek equitable relief in a court of competent jurisdiction without obligation to post bond.

## **LIST OF EXHIBITS**

- Exhibit A - Description of Services
- Exhibit B - Key Personnel
- Exhibit C - Contract Hourly Rates
- Exhibit D - Performance Milestones
- Exhibit E - District Project Team
- Exhibit F - Milestone Payment Schedule

Exhibit G - RFP Proposal  
Exhibit H - Excluded Items

IN WITNESS WHEREOF, the parties have executed this Agreement to become effective as of the Reference Date.

LOS ANGELES COMMUNITY COLLEGE DISTRICT

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

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

[CONSULTANT]

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

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

Federal I.D. Number: \_\_\_\_\_

APPROVED AS TO FORM:

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

## EXHIBIT “A”

### DESCRIPTION OF SERVICES

[The following general descriptions of the Services to be provided by the Consultant are intended to provide a guideline for Proposers in developing a Technical Approach in their Technical Proposals. The descriptions provided herein are expressed in generality, it being the District’s expectation that the Proposers in their Proposals will supplement and expand upon that which is provided below with descriptions of their approach to meeting the District’s stated goals and objectives, including complete and detailed enumeration of services and a full list of deliverables that they envision providing as part of the Services. A final scope and description of Services to be incorporated by exhibit into the terms and conditions of the Agreement will be provided by the District to the Short-Listed Proposer recommended for Award, which will integrate the descriptions stated below with the consolidated elements of the detailed services and deliverables proposed by the Proposers that, in the view of the District, represent overall the most comprehensive and effective approach to delivering the desired services to the District.]

#### A. Phases

The Services shall include and incorporate the following phases:

1. Assessment and Planning
2. Design and site architecture
3. Development / Conversion
4. Testing
5. Deployment
6. Training

#### B. Goals

The Services shall meet the following general objectives and goals of the District:

1. Effectively communicate with prospective and current students with the overall goal of increasing student enrollment.
2. Successfully engage alumni and community members in ongoing communications and relationship with the District.
3. Increase awareness of the District and each College’s mission and programs and instruction available both on and off campus.

4. Develop standard consistency amongst format and content among all websites which results in increased user navigability.

5. Fulfill all Section 508/ADA compliance requirements throughout all District and College websites to reflect an achievement of WCAG 2.0 Level AA Conformance.

C. Deliverables

Deliverables shall include, at a minimum, the following in addition to any other Deliverables appropriate to achievement of the District's aforesaid goals:

1. Assessment of the District's website needs for all nine District Colleges' and the District's Educational Services Center's websites, incorporating input from relevant user groups (students, faculty, and administrative staff) and including (a) complete site architecture and navigation mapping that is consistent among the Colleges and that is reflective of the District's goals as identified above and (b) based on a review existing web contents, recommendations on improvements based on best practices including the consolidation and deletion of unnecessary and/or out of date content and web elements.

2. Written report summarizing the strengths and weaknesses of all current websites and recommend improvements which will support the aforementioned District goals.

3. A comprehensive web redesign plan for the District and each of its Colleges, complete with timelines and performance milestones.

4. Comprehensive and customized web designs for each of the nine Colleges and for the District's main (i.e., Educational Services Center) website as the umbrella organization for all nine Colleges.

5. Consistent standardized templates for all pages to ensure that pages conform with the District's and Colleges' branding and identity, while allowing for flexibility for departments to create a distinct presence in their own page.

6. Incorporation of graphics, videos and images into revised web pages to complement content, messaging and branding in conformance with FHA Section 508/ADA WCAG 2.0 AA standards.

7. A usability testing plan and perform necessary testing to ensure all websites meet expected goals.

8. A training plan and deploy training to identified District employees, including producing training materials that may be District specific.

9. Compliance by all web redesigns with FHA Section 508/ADA WCAG 2.0 AA standards and all relevant, additional federal, state and local requirements regarding disabled accessibility, including monitoring of websites on a regular basis and taking corrected action as needed.

10. Each redesigned website shall be a complete turn-key system that will become District property.

#### D. Technical Platform

1. Provide Cloud hosting on a single tenant with options for each College domain to be controlled semi-autonomously. While initially hosted in the Cloud, sites must also have built-in flexibility to bring in-house if necessary.

2. Build on an open source platform, Drupal 8, with compatibility to upgrade to Drupal 9 when released.

3. Offer access to website through various mobile device technology, including mobile devices, tablets, smart phones, and all major web applications.

4. Provide websites that have a Content Approval Workflow integrated through the CMS system to ensure content is validated and approved by all parties identified prior to publishing. The approval workflow should accommodate proxies.

5. Provide recommendations of possible tools to be used for ADA compliance validation and enforcement.

6. Provide testing that includes validation of each site's technical functionality as well as content validation for items migrated from legacy sites.

**EXHIBIT “B”**  
**KEY PERSONNEL**



**EXHIBIT "C"**

**CONTRACT HOURLY RATES**

**EXHIBIT “D”**  
**PERFORMANCE MILESTONES**

**EXHIBIT “E”**

**DISTRICT PROJECT TEAM**

**EXHIBIT “F”**

**MILESTONE PAYMENT SCHEDULE**

**EXHIBIT “G”**  
**RFP PROPOSAL**

**EXHIBIT "H"**  
**EXCLUDED ITEMS**

**RFP ATTACHMENT NO. 2**

**CONFLICT OF INTEREST CERTIFICATION**

The undersigned hereby certifies the following to be true and correct:

1. Neither the undersigned nor any officer, director, agent, employee, or affiliate of the undersigned, has (or within the past 5 years has had) a financial interest in any consultant or contractor currently under agreement to perform work or services for the District or any of the District's colleges, excepting the following firms: \_\_\_\_\_.
2. Neither the undersigned nor any officer, director, agent, employee, or affiliate of the undersigned, has directly, or indirectly through an intermediary, received from, or paid to, any consultant or contractor currently under agreement to perform work or services for the District or any of the District's colleges any gift or any gratuity, except for the following gifts or gratuities: \_\_\_\_\_.
3. Neither the undersigned nor any officer, director, agent, employee, or affiliate of the undersigned, has (or within the past 5 years has had) any affiliation or business relationship with any official, officer, agent, or employee of the District, or of any consultant or contractor retained by the District, who makes recommendations to the District with respect to the expenditure of money, except for the following affiliation or business relationship: \_\_\_\_\_.
4. Neither the undersigned nor any officer, director, agent, employee, or affiliate of the undersigned, has (or within the past 5 years has had) any affiliation or business relationship with any official, officer, agent, or employee of the District, except for the following affiliation or business relationship: \_\_\_\_\_.
5. No portion of the services proposed to be provided as part of the Request for Proposals process in connection with which this certification is being submitted is anticipated to be performed by a person or entity that is already providing, or that undersigned has reason to believe may provide in the future, services, advice, or consultation to (1) the District or any of its nine colleges, (2) any consultant or contractor retained by the District, or (3) any subconsultant or subcontractor of any consultant or contractor retained by District, except for the following: \_\_\_\_\_.
6. The undersigned does not know of any other circumstances, not described above, that create or could be reasonably interpreted as creating, a conflict of interest, except for the following: \_\_\_\_\_.
7. The undersigned agrees to assume continuing duty to disclose to the District any circumstances that may arise in the future within the scope of the requests for disclosure of conflicts of interests stated above.

Proposer or Subconsultant: \_\_\_\_\_

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

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

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

**RFP ATTACHMENT NO. 3**

**STAFFING PLAN FORMAT**

Consultant's Personnel by Job Title/Position	Fully-Burdened Contract Hourly Rate	Estimated Number of Hours Over Term	Estimated Basic Services Fees
E.g., Project Manager			
E.g., Sr. Architect			
E.g., Developer			
Etc.			

Proposer's Maximum Price: \$ \_\_\_\_\_



**RFP ATTACHMENT NO. 4**

**NONCOLLUSION DECLARATION**

THE UNDERSIGNED DECLARES:

I am the \_\_\_\_\_ of \_\_\_\_\_, the party or proposer ("Proposer") submitting the proposal ("Proposal") that is being submitted with this declaration.

The Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation. The Proposal is genuine and not collusive or sham. The Proposer has not directly or indirectly induced or solicited any other Proposer to put in a false or sham Proposal. The Proposer has not directly or indirectly colluded, conspired, connived, or agreed with any Proposer or anyone else to put in a sham Proposal, or to refrain from Proposing. The Proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the Proposal price of the Proposer or any other Proposer, or to fix any overhead, profit, or cost element of the Proposal price, or of that of any other Proposer. All statements contained in the Proposal are true. The Proposer has not, directly or indirectly, submitted his or her Proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, to any corporation, partnership, company, association, organization, Proposal depository, or to any member or agent thereof to effectuate a collusive or sham Proposal, and has not paid, and will not pay, any person or entity for such purpose.

Any person executing this declaration on behalf of a Proposer that is a corporation, partnership, joint venture, limited liability company, limited liability partnership, or any other entity, hereby represents that he or she has full power to execute, and does execute, this declaration on behalf of the Proposer.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration is executed on \_\_\_\_\_ [date], at \_\_\_\_\_ [city], \_\_\_\_\_ [state]."

\_\_\_\_\_  
[NAME OF PROPOSER]

\_\_\_\_\_  
[Signature of Proposer (if individual) or its Officer]

\_\_\_\_\_  
[Typed Name of Person Signing]

\_\_\_\_\_  
[Office or Title]

**RFP ATTACHMENT NO. 5**

**CERTIFICATION OF NON-DISCRIMINATION**

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

IN WITNESS WHEREOF, the undersigned has executed this Certificate of Non-Discrimination this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

PROPOSER \_\_\_\_\_  
(Type or Print Complete Legal Name of Firm)

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

Name \_\_\_\_\_  
(Type or Print)

Title \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**RFP ATTACHMENT NO. 6**

**CONFIDENTIALITY AGREEMENT**

The undersigned, a duly authorized officer of

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

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

Date: \_\_\_\_\_  
\_\_\_\_\_ *Name of Proposer or Subconsultant*

By: \_\_\_\_\_  
*Authorized Officer*

**RFP ATTACHMENT NO. 7**

**ACKNOWLEDGMENT OF RFP ADDENDA**

The Proposer shall signify receipt of all RFP Addenda, if any, here:

ADDENDUM NO.	DATE RECEIVED	SIGNATURE

**If necessary, please print and sign additional pages.**

PROPOSER \_\_\_\_\_  
(Type or Print Complete Legal Name of Firm)

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

Name \_\_\_\_\_  
(Type or Print)

**RFP ATTACHMENT NO. 8**

**AUTHORIZATION TO RELEASE INFORMATION**

The undersigned Proposer hereby authorizes and consents to the District obtaining information from third parties, including, but not limited to any individual(s) or individual representative(s) of any firm(s), entity(ies) or organization(s) listed in the Proposal, for the purpose of verifying the information provided by the Proposer or for any other purpose related to the evaluation of Proposer's qualifications. Proposer recognizes that to ensure the effectiveness of the RFP process, such individuals must be able to speak frankly and openly. Accordingly, Proposer hereby fully and unconditionally releases and discharges such third parties, and the firms, entities and organizations they represent, from any claim or liability relating to information provided by it/him/her/them to the District in connection with the processing, investigation, and evaluation by District of the Proposer's Proposal.

\_\_\_\_\_  
Name of Proposer

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Date

**RFP ATTACHMENT NO. 9**

**VERIFICATION**

STATE OF CALIFORNIA, COUNTY OF \_\_\_\_\_

I have read the Proposal (including, without limitation all attached or accompanying pages) titled \_\_\_\_\_ submitted by \_\_\_\_\_ [name of Proposer] to which this Verification is attached or with which this Verification is being submitted ("Proposal") and know its/their contents.

The matters stated in the Proposal are true of my own knowledge except as to those matters which are stated on information and belief, and to those matters I believe them to be true.

I am an \_\_\_\_\_ officer, \_\_\_\_\_ a partner, \_\_\_\_\_ a member, \_\_\_\_\_ sole proprietor of \_\_\_\_\_, a \_\_\_\_\_, and am authorized to make this verification for and on its behalf, and I make this verification for that reason.

Executed on \_\_\_\_\_ (date), at \_\_\_\_\_ (city), California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

\_\_\_\_\_  
(Print Name)

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

**RFP ATTACHMENT NO. 10**

**Operations and Policy Procedures, PP-04-09**



## **PP-04-09 BID PROTESTS AND APPEALS**

### **I. OVERVIEW**

It is the policy of the District to afford due process to suppliers that have participated in a competitive procurement process and believe they have not been accorded fair treatment or that the selection process was materially flawed.

This process extends to suppliers whose bids have been rejected as “non-responsive” to a solicitation or which have been declared “non-responsible” and ineligible for award. At the same time, it is not the District’s intent to unnecessarily delay the award of contracts resulting from legitimate processes or provide a forum for bidders interested solely in denying business to their competitors.

Accordingly, this section establishes the rules and procedures for vendors to protest the recommended awards resulting from requests for quotes, invitations for bids or requests for proposals. Different rules and procedures are applied to purchases below and above the statutory bid threshold.

Since most purchases below the statutory bid threshold are delegated to the colleges and purchasing regions and are transacted informally (e.g. orally, via email or fax, through catalog pricing), with the objective of expediting the transactions, the protest process is correspondingly abbreviated and college-based. Conversely, because purchases equal to or exceeding the bid threshold are reserved to the District Contracts and Purchasing Section and are transacted in a formal manner, with resulting contracts requiring prior approval by the Board of Trustees, the protest process is equally formal and administered by the District Business Services Office.

This section does not cover the process for bid protests of public works projects under the California Uniform Cost Accounting Act (CUPCAA). This process may be found in the Facilities Section or in Board Rule 7103.6.

### **II. PROCESS**

#### **A. Purchases below statutory bid threshold**

##### **1. Filing of protest**

A supplier that has submitted a quote or proposal to a college for less than the statutory bid threshold, and wishes to lodge a protest





against the award to another supplier (hereafter in this section, "Protestor"), supplier must comply with the following:

- (a) Submit such protest in writing to the Vice President of Administrative Services of the college (hereafter in this section, "Vice President");
- (b) The protest must be submitted within two (2) business days of notification of the proposed award; and
- (c) The protest letter must state the basis for the protest and the remedy sought.

## 2. Disposition of protest

Upon receipt of a protest, the Vice President will:

- (a) Suspend award pending disposition of the protest;
- (b) Notify the supplier recommended for award (hereafter in this section, "Awardee") about the protest; and
- (c) Invite the Awardee to submit, within two (2) business days of notice of the bid protest, any information in support of the award.

If the Vice President upholds the protest, this decision and its basis will be conveyed in writing to the Protestor, the Awardee, and any other supplier that submitted a quote or proposal. The communication will also declare the college's intention to: (a) award to another supplier, or (b) cancel the solicitation and re-solicit quotes or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

If the Vice President denies the protest, this decision and its basis will be conveyed in writing to the Protestor and all other suppliers that submitted a quote or proposal. In denying the protest, the Vice President may declare the college's intention to: (a) award to the Awardee; or (b) cancel the solicitation and re-solicit quotes or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

Whether upholding or denying the protest, if the Vice President elects to cancel the solicitation and not re-solicit for at least six months, then the decision on the protest and the action will be deemed final and there will be no further avenue of appeal for any party.



**3. Appeal**

Except where the Vice President's decision is deemed final as stipulated above, any supplier notified of the Vice President's decision on a protest must, within two (2) business days of notice, appeal the decision in writing to the President of the college and include in the appeal to the President the same information as required for the original protest. The disposition of the appeal will be handled in the same manner as the protest.

The President's decision on the appeal will be conveyed to all parties in writing. The President's decision in the matter will be final and there will be no further avenue of appeal for any party.

**4. District Office transactions**

If the protested transaction is for the District Office, the initial protest described above will be directed to the Director of Business Services and the appeal will be to the Deputy Chancellor, whose decision in the matter will be final. Such decision will be communicated to all parties in writing within a reasonable time period after the decision is made.

**5. Notice of protest procedures**

The procedure described above will be provided upon request to any supplier that requests information on how to protest an award below the statutory bid threshold. The procedure for supplier protest will be made available on the LACCD website.

**B. Purchases at or above statutory bid threshold**

**1. Filing of protest**

A supplier that has submitted a sealed bid or proposal to the District under a solicitation estimated to equal or exceed the statutory bid threshold, and wishes to lodge a protest against the award to another bidder/proposer, must comply with the following:

- (a) Submit such protest in writing to the Director of Business Services at the District Office (hereafter in this section, "Director");
- (b) Protests must be submitted within five (5) business days of notification of the proposed award; and



- (c) The protest letter must state the basis for the protest and the remedy sought.

## 2. Disposition of protest

Upon receipt of a protest, the Director will:

- (a) Suspend award pending disposition of the protest;
- (b) Notify the Awardee about the protest; and
- (c) Invite the Awardee to submit, within two (2) business days of notice, any information in support of the award.

If the Director upholds the protest, this decision and its basis will be conveyed in writing to the Protestor, the original Awardee, and any other supplier that submitted a bid or proposal. The communication will also declare the District's intention to: (a) award to another bidder/proposer, or (b) cancel the solicitation and re-solicit bids or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

If the Director denies the protest, this decision and its basis will be conveyed in writing to the Protestor and all other suppliers that submitted a bid or proposal. In denying the protest, the Director may declare the District's intention to: (a) award to the Awardee; or (b) cancel the solicitation and re-solicit bids or proposals, or (c) cancel the solicitation and not re-solicit for at least six (6) months.

Whether upholding or denying the protest, if the Director elects to cancel the solicitation and not re-solicit for at least six months, then the decision on the protest and the action will be deemed final and there will be no further avenue of appeal for any party.

## 2. First appeal

Except where the Director's decision is deemed final as stated above, any supplier so notified of the Director's decision may:

- (a) Submit within five (5) business days of notice of the Director's decision, an appeal in writing to the Chancellor, who may elect to delegate disposition of the appeal to the Deputy Chancellor.
- (b) Appeal to the Chancellor or Deputy Chancellor (collectively, hereafter in this section, "Chancellor") and such an appeal must include the same information as required for the original protest. Disposition of the appeal will be handled in the same manner as the protest.



The Chancellor's decision on the appeal will be conveyed to all bidders/proposers in writing. Whether upholding or denying the appeal, if the Chancellor elects to cancel the solicitation and not re-solicit bids or proposals for at least six (6) months, then the decision on the appeal and the action will be deemed final and there will be no further avenue of appeal for any party.

### **3. Final appeal; public hearing**

Except where the Chancellor's decision is deemed final as stipulated above, any bidder/proposer so notified of the Chancellor's decision may:

- (a)** Submit within five (5) business days of notice of the Chancellor's decision, an appeal in writing to the Board of Trustees (hereafter in this section, "Board") and request a public hearing on the appeal at a regularly scheduled Board meeting before action is taken on the recommended award.
- (b)** Appeal to the Board and such an appeal must include the same information as required in the Chancellor's appeal.

Upon receipt of such appeal, the Board will defer award (if one is recommended) until after disposition of the appeal. The Board will also notify the Awardee about the appeal and invite that party to (a) submit information in support of the award, and (b) appear at the public hearing if one is requested. Both the public hearing on the appeal and the award of contract, if one is recommended, may appear on the same public board agenda. Notice of the action taken by the Board will be conveyed to all bidders/proposers within a reasonable time period.

If an appeal is filed but no public hearing is requested, or if the appellant fails to appear for a requested public hearing, the Board may rule summarily on the appeal or postpone a decision until a future date. Notification of the action taken or decision made by the Board will be provided to all bidders/proposers within a reasonable time period.

If a public hearing is held, the Board will take testimony from the appellant and others that wish to speak on the matter before rendering a decision on the appeal. The Board, in its discretion, may limit the time allotted to testimony or the type of information that may be presented.

If the Board denies the appeal, it may proceed to award the contract if one is recommended on the Board agenda. If the Board



upholds the appeal, then the Board may: (a) declare its intent to award to another bidder/proposer and direct staff to place a recommendation for said award on the next available Board agenda, or (b) cancel the solicitation and order the re-solicitation of bids or proposals, or (c) cancel the solicitation and order that bids/proposals not be re-solicited for at least six (6) months. The Board's decision on the appeal will be final, with no avenue for further appeal, and will be conveyed to all bidders/proposers in writing. Notification of the Board's decision will be communicated to all bidders/proposers within a reasonable time period after the decision is made.

**4. Notice of protest procedure**

A true and accurate summary of the rules and procedures for filing a protest, as described in II.B.1 above, will be included in any invitation for bids or request for proposals for purchases at or above the statutory bid threshold. Thereafter, a copy of the rules and procedures governing appeals will be furnished to each Protestor as part of a response to the protest. The protest procedure will also be made available on the LACCD website.

**5. Recordkeeping**

File records containing documentation on supplier protests and appeals, including but not limited to correspondence and written decisions, shall be maintained by the Office of the Vice President of Administrative Services or in the Office of the Director of Business Services respective to the dollar threshold of protest initiation.

Files should be kept in a chronological, complete and orderly manner as these documents constitute the administrative record for the process afforded to a specific supplier by the District in a particular case and could be exposed in potential litigation with a supplier or subject to a California Public Records Act request.

**III. LEGAL AUTHORITY AND CITATIONS**

Public Contract Code sections 10290, 20650-20660, 22030-22045

Education Code sections 81550 et seq, 81641, 81651

Government Code section 53060



**LOS ANGELES COMMUNITY COLLEGE  
DISTRICT  
BUSINESS OPERATIONS POLICY AND  
PROCEDURES**

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Board Rules 7100, 7100.16 and 7102.16, 7103.6

04-02 – Types of Transactions

04-06 - Large Purchases

Government Code sections 6250-6270