

REQUEST FOR QUALIFICATIONS AND PROPOSALS – ADA SELF EVALUATION SERVICES, SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT

South Orange County Community College District (SOCCCD) is inviting submittals from qualified firms, partnerships, corporations, associations, or professional organizations (CONSULTANTS) to provide Americans with Disabilities Act (ADA) Self Evaluation Services for Irvine Valley College and Saddleback College and for the Advanced Technology and Education Park (ATEP). Evaluation will result in an Agreement expected to provide comprehensive professional services to SOCCCD beginning TBD.

If you would like to submit a response to this Request for Qualifications and Proposals, please send seven (7) hard copies and one (1) electronic copy of requested materials to:

**South Orange County Community College District
Facilities Planning & Purchasing
Health Sciences Building, 3rd Floor
28000 Marguerite Parkway
Mission Viejo, CA 92692
Attn: Mark Schoeppner**

Questions regarding this RFQ&P may be directed to Mark Schoeppner, Construction Manager, 949.348.6126 or via email at mschoeppner@socccd.edu.

The SOCCCD may modify the RFQ&P prior to the deadline for submittals by issuance of an electronic addendum on the SOCCCD bid website at www.socccd.edu. Firms/Individuals (CONSULTANT) may confirm an interest in providing a submittal by emailing Mark Schoeppner at mschoeppner@socccd.edu. Acknowledging Firms will receive a response email with addenda information if any is provided.

All responses must be received by mail, recognized carrier or hand delivered by

October 31, 2:00 P.M.

NOTICE CALLING FOR BIDS

District: SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT

Project: BID NO. 357D
RFQ&P for ADA Self Evaluation Services,
South Orange County Community College District

Bid Deadline: 2:00 P.M., October 31, 2017

**Mailing Address &
Place of Bid
Receipt:** South Orange County Community College District
Health Sciences Building, 3rd Floor, Room HS-357
Purchasing & Facilities Planning Department
28000 Marguerite Parkway
Mission Viejo, CA 92692
Attn: Mark Schoeppner

NOTICE IS HEREBY GIVEN that the South Orange County Community College District, of Orange County, California, acting by and through its Governing Board, hereinafter referred to as "DISTRICT," will receive up to, but not later than, the above-stated time, sealed submittals by qualified firms for consideration for RFP&Q for ADA Self Evaluation Services at SOCCCD.

A complete Request for Qualifications and Proposals may be viewed at the Office of the Director of Facilities Planning and Purchasing Department at the above address, telephone (949) 582-4678 or previewed on-line at www.socccd.edu.

The DISTRICT reserves the right to reject any or all submittals or to waive any irregularities or informalities in any proposals.

No bidder may withdraw any bid for a period of ninety (90) calendar days after the date set for bid opening.

Brandye K. D'Lena
Executive Director,
Facilities Planning & Purchasing

PUBLISH: THE REGISTER

October 10, 2017 &
October 17, 2017

INTRODUCTION

SOCCCD seeks to conduct an ADA Self Evaluation for their organizations. The evaluation and report development timeframe is expected to be 9 months. The selected team will work with SOCCCD, take an active leadership role in the entire process, make presentations to the Board of Trustees when scheduled, and prepare the final documents. These documents will include at the minimum:

- Summary of Findings and Recommendations including best practice templates for typical accommodation policies and procedures

The SOCCCD is requesting qualification statements and proposals from CONSULTANTS with a proven track record. At a minimum, CONSULTANTS will provide evidence of experience on three projects of similar scope within the last five years.

It is the intent of this Request for Qualifications and Proposals (RFQ&P) to establish the specifications, terms and conditions governing the evaluation process.

BACKGROUND:

The SOCCCD consists of two colleges and a developing campus: Saddleback College, Irvine Valley College and the Advanced Technology and Education Park (ATEP).

Saddleback College, located in Mission Viejo, will be celebrating its 50th anniversary on September 23, 2018. Saddleback College is approximately 175 acres and serves over 39,000 students each year.

Irvine Valley College, located in Irvine, was founded in 1979 as Saddleback College North Campus and established as Irvine Valley College July 1, 1985. Irvine Valley College is approximately 100 acres and serves over 14,000 students each year.

ATEP, the Advanced Technology Education Park, opened its doors to students in 2007. Classes are currently held in five buildings leased from the City of Tustin. A Development framework has been created for future development of the ATEP site which will replace the current buildings.

All district buildings and rights-of-way have been surveyed and analyzed for compliance with the Americans with Disabilities Act and Title 24 and an updated ADA Transition Plan was completed in 2017.

SUBMITTAL INFORMATION AND SUBMITTAL SCHEDULE

All submittals shall be in the form and formatted as specified in this RFQ&P. Submittals which do not include all of the elements as specified, or which deviate from the proposed format and content as specified, may be deemed “non-responsive” by the evaluation committee and eliminated from further consideration.

Time is of the essence. Submitting Firms will be expected to adhere to the required dates and times.

TIMELINE:

Submittal questions must be in writing and be directed to Mark Schoeppner via email at mschoeppner@socccd.edu with the subject line indicating “Question(s) for ADA Self Evaluation Services

RFQ&P". If questions are submitted after the deadline, they will not be answered and firms must provide a submittal using the information in the RFQ&P and any addenda provided.

Request for Qualification & Proposals Submittal Schedule

RFQ&P - 1 st Advertisement	October 10, 2017
RFQ&P - 2 nd Advertisement	October 17, 2017
Deadline for written questions	October 20, 2017
Last addendum	October 23, 2017
Deadline for RFQ&P Submittal	October 31, 2017
Interviews	November 16, 2017
Contract Negotiation	November 17, 2017
Board Meeting - Approval	December 11, 2017
Contract Execution	December 12, 2017

During the review of the submittals, SOCCCD will not report apparent errors or request submittal clarification. Submittals will be interpreted as presented. Firms are responsible to proof documents to avoid errors.

The delivery package must be clearly marked with the RFQ&P title, Firm's name and address, contact name, email and phone number.

Submittals may be withdrawn at any time before the deadline by written request of person signing the Certification.

Late submittals will be returned to the firm without evaluation and firm will not qualify for consideration. It is the firm's responsibility to ensure submittals are received on or before the deadline and at the identified location. A postmark will not be accepted as meeting the delivery requirement. Third party carriers are routed through the warehouse and may experience delay from carriers stated delivery timeframe. Hand delivery should include time allowances for limited parking, the possibility of elevator failure (third floor delivery) or other potential obstacles to reaching the delivery location in a timely manner.

SCOPE OF WORK

Services:

Consultant is to be retained to provide services to the South Orange County Community College District ("SOCCCD") relative to the performance of a comprehensive ADA Self-Evaluation to survey, evaluate and recommend steps for implementation relative to the SOCCCD's compliance with all requirements applicable to SOCCCD under Title II of the Americans with Disabilities Act of 1990 and all current or otherwise applicable policies, regulations, standards and requirements enacted, published or distributed by those agencies, departments or divisions of the United States Government given authority to implement and enforce those requirements (collectively, the "ADA").

The goal of the Self-Evaluation is to set forth detailed descriptions, in a form satisfactory to SOCCCD, of the Consultant's recommendations in regard to modifications (including, without limitation, modifications to policies, procedures, practices and services) required in order to bring the SOCCCD and Saddleback College, Irvine Valley College and ATEP into compliance with the requirements of the ADA and a proposed sequence and schedule for compliance that conforms to the priorities mandated or recommended by the ADA.

The Self-Evaluation shall include recommendations relative to nondiscrimination and access and usability for individuals with disabilities relative to:

- Communications (including, without limitation, an evaluation of auxiliary aids, audio-visual materials, communications equipment and emergency communications)
- Programs (including, without limitation, an evaluation of course admission, registration, orientation, eligibility, substitution, testing, degree requirements and access to instructional and research materials)
- Computer use (including, without limitation, an evaluation of access to, and modifications or replacement of, equipment)
- Employment (including, without limitation, an evaluation of all conditions and processes relative to employee recruitment, testing, hiring, retention, evaluation, advancement/demotion, compensation and benefits, termination and grievances)
- Transportation (including, without limitation, an evaluation of rolling stock and other equipment, scheduling and driver training)

Schedule. The ADA Self Evaluation Services effort is expected to begin upon Board approval at the December 11, 2017 Board meeting and end no later than September 30, 2018.

Tasks. The following are the expected tasks and deliverables associated with the ADA Self Evaluation effort:

1. Task 1: Project Initiation

Meet with district and college steering committee members and staff to develop and finalize a detailed work plan and schedule which at a minimum will establish meeting and presentation schedules, clarify roles and responsibilities of both staff and consultant teams and include an evaluation methodology, in accordance with RFP terms and conditions and appropriate to meet the highest standard for the ADA Self Evaluation project.

Communicate to District and Campus executives, administrators, teachers, managers, staff and students, by means of written materials and workshops, the details of the Self-Evaluation process, with the goal of imparting a better understanding of the ADA, its principles of compliance and the requirements of the ADA applicable to the District.

Deliverables:

- a) Meeting notes
- b) Final work plan and project schedule

c) Roles and Responsibilities Matrix

d) Evaluation methodology

2. Task 2: Research and Analysis Phase

Consultant shall organize its processes relative to the facilitation of the District and Colleges ADA Self-Evaluation to include:

- Prepare program materials, including questionnaires and surveys, and assist the District in eliciting input into the ADA Self Evaluation process, as necessary. Assist the District with organizing project workshops as needed. Facilitate the workshop(s), maintain a record of the proceedings and comments and be prepared to answer questions within the area of expertise.
- Collect information related to policies, procedures, practices and services (by means of interviews, questionnaires, surveys or other means satisfactory to District and Colleges).
- Evaluate, in conjunction with District and College representatives, District and College policies, procedures, practices and services to determine compliance with the ADA.
- Organize, in cooperation with the District, Irvine Valley College and Saddleback College, outreach opportunities for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments

Deliverables:

- a) Summary of meeting notes with District and College representatives and key stakeholders
- b) A list of the interested persons consulted
- c) A description of areas examined and any problem identified
- d) A description of any modifications made

3. Task 3: Recommendations Phase

CONSULTANT shall provide recommendations of corrective actions to achieve compliance with the ADA including the presentation of best practice templates for typical accommodation policies and procedures. CONSULTANT will facilitate the prioritization process for identified corrective actions.

Deliverables:

- a) Draft and final versions of Research and Analysis Findings and Recommendations.
- b) Best practice templates for typical accommodation policies and procedures

- c) Prioritized list of SOCCCD'S identified corrective actions based on CONSULTANT'S facilitation.

INSTRUCTIONS FOR SUBMITTING QUALIFICATIONS AND PROPOSALS

Firms shall submit seven hard copies and one electronic copy. Hard copies shall be formatted on standard 8 ½ x 11 white paper with each page clearly numbered on the bottom. Each section, 1 – 12 listed below, shall be tabbed. The original copy shall be marked "Original" and must be wet signed by person authorized to bind the firm.

"Qualifying firms must not be on the federal list of current companies or individuals that have been declared ineligible to receive Federal contracts due to a violation of Executive Order 11246, as amended; Section 503 of the Rehabilitation Act of 1973, as amended 29 U.S.C. Section 793; and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended, 38 U.S.C. Section 4212".

All submittals shall be in the form and formatted as specified in this RFQ. **Submittals which do not include all of the elements as specified, or which deviate from the proposed format and content as specified, may be deemed "non-responsive" by the evaluation committee and eliminated from further consideration.**

Statement of Qualifications and Proposals should minimally include the following information:

1. **Cover Letter.** A maximum one-page, dated **Introductory Letter** must be submitted including the date, legal name of the respondent, address, telephone and fax numbers, and the name, title, and signature of the person(s) authorized to submit the proposal on behalf of the firm.
2. **Table of Contents.** A **Table of Contents** of the material contained in the proposal should follow the Cover Letter.
3. **Executive Summary.** The **Executive Summary** should contain an outline of your general plan and a brief summary of approach and qualifications to engage in a professional relationship with South Orange County Community College District. (two page maximum)
4. **Experience.** Highlight experience with college and university educational facilities and other institutional services facilitating ADA Self Evaluations. (One page for summary and up to five additional to highlight project specific information if appropriate)

Provide any professional registration, certifications and affiliations for the firm. Describe your experience with ADA Self Evaluations and more particularly community college projects. Include the scope of work performed within the last five years with a listing of clients served. Specify which Projects were performed by the personnel recommended for this Work.

Briefly describe any interface with associated regulatory agencies.

5. **Insurance** - Provide the amounts and carriers of both general and professional liability insurance. Provide evidence that the Firm is legally certified to conduct business in the State of California for the services offered.

The Firm must have an acceptable history of working proactively to avoid litigation. Provide specific information on termination for default, litigation settled or judgments entered within the last five (5) years.

If the Firm utilizes resources from more than one office, indicate office locations and how work would be coordinated.

6. Personnel. This section of the proposal should establish the ability of the firm to satisfactorily perform the required services as demonstrated by its representation of staff availability. Information shall further specifically include:

- a. Number of qualified staff, specifically, the number of Certified Access Specialists.
- b. Identification of any services noted in the Agreement(s) not provided in-house
- c. Identification of proposed sub consultants
- d. All personnel assigned to district projects, employees, sub-consultants or subcontractors must:
 - i. Possess the minimum qualification to perform the services provided
 - ii. Have knowledge and understanding of terms and conditions, major services and activities required to perform services provided
 - iii. Have a minimum of three years of directly related experience
 - iv. Have not entered into a subcontract with any Firms who are ineligible to perform work on a public works project pursuant to Labor Code 17777.1 or 17777.7
- e. Include resumes of proposed personnel, including any proposed sub-consultants who would likely be assigned to projects. Provide name and professional qualifications of proposed personnel. Specifically define the role of each person and outline his or her individual experience. Identify any certifications or licenses held (No more than one page per person).
- f. Firms must provide a statement that all proposed participants will meet or exceed the minimum qualifications specified herein

7. Scope of Work and Methodology. The Scope of Work provided describes the expected effort of the consultant; however, the consultant may recommend refinements, suggestions or brief restatements of the scope of work in this section. In this section, address the proposed methodology of facilitating self-evaluations, evaluating higher education policies, procedures, practices and services and providing training of designated SOCCCD staff in the areas specified in the Scope of Work. (Three pages maximum)

8. Services. Define which services will be provided in-house and those for which you will hire consultants. Define the number of years you have worked with each consultant proposed as part of potential project teams. (One page maximum)

9. Additional Data. Provide additional information about the firm as it may relate to this RFQ & P. Indicate ongoing professional education of staff and total number of permanent employees.

DVBE, Small business, small disadvantaged business, minority-owned firms, and small women-owned business participation level. Consortia of small businesses, minority-owned firms, and women's business enterprises are encouraged, and subcontracts with small businesses, minority-owned firms, and women's business enterprises are also encouraged. (Include as an appendix if desired). Internships? Other?

10. Professional Fees. Provide with your proposal one copy of a fixed fee **in a sealed envelope**. Itemize the fee similarly to the breakouts found in the sample agreement. The evaluation committee will make their recommendation based on qualifications and will then enter contract negotiations including fee based discussions.

A Fixed Fee proposal will be based on fully-loaded hourly billing rates for each classification. When providing costs, proposal shall include costs for all required overhead expenses including insurance. Travel cost from the Firm's place of business including time, overhead and related expenditures shall be incorporated into the unit prices for each line item and are not to be identified as separate costs. Firms are expected to perform services at the rate amount in the fee proposal regardless of the possibility that staff is drawn from a variety of office locations.

Fixed Fees provided in this submittal will be used as the basis for contract negotiations. The final all-inclusive rate shall be negotiated after the evaluation process. Any increases must be approved in writing by the SOCCCD prior to the performance of service. Agreements will be based on a lump sum basis.

No separate payment will be made for any other costs of performance or out of pocket expenses, including, without limitation, mileage or time required for dispatching personnel to SOCCCD locations, subsistence, lodging, fuel charge, vehicle use, transmitting reports, administrative charges, or other similar activities necessary for performance of the services except for personnel that are required to perform services at a destination that is more than 50 miles from Saddleback College. If this circumstance occurs, firm shall first obtain written approval and will be reimbursed at the rate for mileage (for such mileage over 50 miles) set forth by the United States Internal Revenue Services and for per diem travel as set forth by the US General Services Administration.

Proposers shall specifically include hourly rates for full time services in their proposals for the following:

- Principal
- Lead – Project Manager/Evaluator
- Associates
- Clerical staff
- Overtime and Weekend Rates for the above
- Proposer may choose to provide an itemized fee schedule for extra or additional services that are not within Scope of Services
- Include fee schedules for consultants if used

Identify any constraints or assumptions that affect the proposed fee. Services that are not specifically included in RFQ exhibits may be provided as supplementary information. **Be thorough and specific as this will form the basis of any contract negotiations for services.**

11. Client References. This section of the proposal permits firms to demonstrate their ability and competence to satisfactorily perform the required services by using similar services recently completed for other clients. Information should be furnished for both the firm and any sub consultants included in the proposal and shall include:

- a. Project name, location and description
- b. Client contact name
- c. Telephone number
- d. Email address

This section may also include letters of recommendation or testimonials

12. Agreement Review. Review and comment on any proposed modifications to the attached draft Agreement(s). Recommend additional work scope if appropriate to allow for improved outcome for the SOCCCD.

13. Certification. Complete, provide authorized signature, and date the CERTIFICATION - REQUEST FOR QUALIFICATION & PROPOSALS enclosed with this RFQ&P. (Attachment A).

Responses to the RFQ&P should be complete and be prepared to provide an insightful, straightforward, and **concise** overview of the capabilities of your company. **Deviation from the defined content, order and format prescribed in this RFQ&P may result a non-responsive evaluation. Submittals received after the due date and time will not be considered or reviewed. The emphasis of your submittal should be on completeness and clarity of content.**

The SOCCCD reserves the right to waive any immaterial deviation in a submittal. The decisions to provide a waiver shall in no way modify or compromise the overall purpose of the submittal, nor excuse the Firm from full compliance with all requirements if awarded an Agreement.

The sample standard agreement (Attachment B) is not to be included with the Firm's submittal.

BASIS OF AWARD

The evaluation of the ADA Self Evaluation Consultant will be a three-stage process.

1. The first stage will be based on analysis principally focusing on specific experience and qualifications.
2. The optional second stage may include, at the option of the evaluation committee, short-listed ADA Self Evaluation Consultants invited for an interview to present their full understanding of, and responsiveness to, this RFQ&P and their specific experience and approach.
3. The third and final stage is successful contract negotiations.

At the conclusion of the second stage, ADA Self Evaluation Consultant will be recommended for selection to the Board of Trustees on the basis of criteria regarding qualifications, experience, demonstrated competence as well as the best interests of the SOCCCD as determined by the committee, including consideration of fair and reasonable pricing.

Prior to presenting a recommendation to the Board of Trustees (if deemed necessary), district staff will engage in contract negotiations with selected firm. If negotiations with the first team selected are unsuccessful, negotiations will commence with the second team and so on until an agreement has been successfully negotiated or SOCCCD rejects all proposals.

Note: By virtue of submission, the proposing firm declares that all information provided in the Statement of Qualifications is true and correct.

MISCELLANEOUS

1. General information about SOCCCD may be found at <http://www.socccd.edu>. Recent projects are listed at the “Bids” tab.
2. All submittals shall remain active and valid for ninety days following closing date for receipt. The SOCCCD reserves the right to negotiate the scope and cost of any submittal.
3. Recommendation to the Board may be made solely on the basis of the stage one submittal review or the selection committee may deem it necessary to interview applicants as part of the selection process.
4. The proceedings of the evaluation committee are confidential. Members are not to be contacted by the proposers. All communication between proposers and the SOCCCD shall be through the contact information provided above for submitting RFQ & P materials.
5. All materials, except financial information, submitted in response to this RFQ & P shall become the property of SOCCCD and shall be considered a part of Public Record. The SOCCCD reserves the option to retain or dispose of all submittals whether selected or rejected.
6. Only written changes to the RFQ & P will be valid. Verbal representations will not be binding on either party. Proposers are responsible to monitor the district bid page for addenda information.
7. SOCCCD reserves the right to reject any or all responses to this RFQ & P. Any and all costs incurred in preparing and submitting a response to this RFQ & P is the sole responsibility of the proposer. This request does not constitute an offer of employment or a contract for services.

The SOCCCD may modify the RFQ&P prior to the deadline for submittals by issuance of an electronic addendum on the district bid website. Firms/Individuals; all addenda will be posted on the bid website and it is the proposers responsibility to ensure they have obtained and reviewed all addenda.

QUESTIONS FROM POTENTIAL RESPONDENTS

Questions regarding this RFQ&P may be directed to Mark Schoeppner, Construction Manager, at (949) 348-6126 or via email at mschoeppner@socccd.edu.

The SOCCCD may modify the RFQ&P prior to the deadline for submittals by issuance of an electronic addendum on the district bid website. Firms/Individuals (Firm) may confirm an interest in providing a submittal by emailing mschoeppner@socccd.edu. Acknowledging Firms will receive response email with addenda information if any is provided.

Specific Inclusions

1. **Attachment A: Certification – Request for Qualifications**
2. **Attachment B: Sample Agreement for ADA Self Evaluation Services.**
3. **Attachment C: Sample fee schedule for extra work**

4. **Attachment D: Sample Invoice for monthly billings**
5. **Attachment E: ADA Self Evaluation Services – Qualification Matrix**

Proposals shall be received up to but not later than 2:00 p.m., on the date listed in the schedule.

RFQ & P - Attachment A

CERTIFICATION – REQUEST FOR QUALIFICATIONS & PROPOSALS

CERTIFICATION - REQUEST FOR QUALIFICATIONS

The undersigned hereby proposes and agrees to furnish any and all required labor, equipment, material, transportation, insurance, and incidentals necessary to provide quality services pertaining to this solicitation in accordance with the terms and conditions of the RFQ & P; declares that the only persons or parties interested in this submittal as principals are those named herein; that this submittal is made without collusion with any other person, firm or corporation; that the undersigned will contract with SOCCCD to provide these services to the SOCCCD in the manner prescribed herein.

I certify that I have read the attached Request for Qualifications – ADA Self Evaluation Services and the instructions for submitting an RFQ & P. I further certify that I am authorized to bind the Firm noted in this submittal contractually, know that I must provide seven hard copies and one electronic copy of the Firm’s submittal in response to this request and that I am authorized to commit the Firm to the submittal.

I acknowledge the following addenda(s) _____

Signature

Typed or Printed Name

Title

Phone

Address

Email

Provide Seal here, if Corporation

RFQ & P - Attachment B

Sample Agreement to be developed as part of the RFQ & P Process

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AGREEMENT – AMERICANS WITH DISABILITIES ACT (ADA) SELF EVALUATION CONSULTANT SERVICES

This AGREEMENT is made and entered into this 1st day of Month in the year 2017 between **South Orange County Community College District**, 28000 Marguerite Parkway, Mission Viejo, California 92692, hereinafter referred to as "DISTRICT", and **Name, Address**, hereinafter referred to as "CONSULTANT";

WHEREAS, DISTRICT desires to obtain CONSULTANT services for South Orange County Community College District ADA Self Evaluation, hereinafter referred to as "PROJECT"; and

WHEREAS, CONSULTANT is fully licensed to provide CONSULTANT services in conformity with the laws of the State of California;

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE 2 CONSULTANT'S SERVICES AND RESPONSIBILITIES

- 2.1. **Services.** The CONSULTANT'S services shall consist of those services performed by the CONSULTANT and CONSULTANT'S employees as enumerated in this AGREEMENT.
- 2.2. **Standard of Care.** CONSULTANT shall provide the Services and authorized Additional Services using its best professional skill and judgment, acting with due care and in accordance with professional standards of care, the terms of this Agreement, and all applicable laws, codes, rules, regulations or ordinances. CONSULTANT'S services shall be provided and completed promptly and in such a manner as to avoid hindrance, interruption, or delay to the orderly progress and timely completion of Project. CONSULTANT shall without additional compensation, correct or revise any errors or omissions in its studies, reports, and other services.
- 2.3. **Key Individual Assignment.** The CONSULTANT has been selected to perform the work herein because of the skills and expertise of key individuals. The CONSULTANT shall designate **Name, as Project Executive**, and a management team of **Name as Project Manager** and **Name as Senior Project Consultant**. So long as their performance continues to be acceptable to the DISTRICT, these named individuals shall remain in charge of the PROJECT. Additionally, the CONSULTANT must furnish the name and obtain approval after a resume' review of all other key people in CONSULTANT'S firm that will be associated with the PROJECT.
- 2.4. **Replacement of Key Individual.** If the designated project manager or any other designated lead or key person fails to perform to the satisfaction of the DISTRICT, then upon written notice the CONSULTANT will have 10 working days to remove that person from the PROJECT and replace that person with one acceptable to the DISTRICT after review of resume' and/or interview. A project manager and all lead or key personnel must also be designated by the CONSULTANT and are subject to all conditions previously stated in this paragraph
- 2.5. **Relationship of CONSULTANT to Other Project Participants.** CONSULTANT'S services hereunder shall be provided in conjunction with applicable contracts between the DISTRICT and others providing services in connection with the PROJECT. The CONSULTANT is responsible for the adequacy and sufficiency of the contents of documents for the PROJECT. The CONSULTANT shall

perform its duties in accordance with its contract(s) with the DISTRICT. CONSULTANT shall coordinate all work with DISTRICT as necessary to complete contract requirements

- 2.6. **Project Schedule.** The CONSULTANT acknowledges that all time limits stated in this Agreement and associated work orders are of the utmost importance to DISTRICT. The CONSULTANT shall submit for the DISTRICT'S approval a schedule for the performance of the CONSULTANT'S services. The schedule may be adjusted as the PROJECT proceeds by mutual written agreement of the parties and shall include allowances for time required for the DISTRICT'S review and for approval by authorities having jurisdiction over the PROJECT. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the CONSULTANT.

ARTICLE 3 SCOPE OF CONSULTANT'S SERVICES

- 3.1. **Services.** CONSULTANT is to provide services to the DISTRICT relative to the performance of a comprehensive ADA Self-Evaluation to survey, evaluate and recommend steps for implementation relative to the DISTRICT'S compliance with all requirements applicable to District under Title II of the Americans with Disabilities Act of 1990 and all current or otherwise applicable policies, regulations, standards and requirements enacted, published or distributed by those agencies, departments or divisions of the United States Government given authority to implement and enforce those requirements (collectively, the "ADA"). The goal of the Self-Evaluation is to set forth detailed descriptions, in a form satisfactory to DISTRICT, of the CONSULTANT'S recommendations in regard to modifications (including, without limitation, modifications to policies, procedures, practices and services) required to bring the District, Saddleback College, Irvine Valley College and ATEP into compliance with the requirements of the ADA and a proposed sequence and schedule for compliance that conforms to the priorities mandated or recommended by the ADA. Services will include program accessibility compliance audits to provide the basis for identification, prioritizing, budgeting and implementation of plans to assist the District in its efforts to comply with accessibility requirements as required by the "Americans with Disabilities Act of 1990" (ADA) and State of California Access Codes.

- a. **Tasks.** The following are the expected tasks and deliverables associated with the ADA Self Evaluation effort:

1. Task 1: Project Initiation

Meet with district and college steering committee members and staff to develop and finalize a detailed work plan and schedule which at a minimum will establish meeting and presentation schedules, clarify roles and responsibilities of both staff and consultant teams and include an evaluation methodology, in accordance with RFP terms and conditions and appropriate to meet the highest standard for the ADA Self Evaluation project.

Communicate to District and Campus executives, administrators, teachers, managers, staff and students, by means of written materials and workshops, the details of the Self-Evaluation process, with the goal of imparting a better

understanding of the ADA, its principles of compliance and the requirements of the ADA applicable to the District.

Deliverables:

- a) Meeting notes
- b) Final work plan and project schedule
- c) Roles and Responsibilities Matrix
- d) Evaluation methodology

2. Task 2: Research and Analysis Phase

Consultant shall organize its processes relative to the facilitation of the District and Colleges ADA Self-Evaluation to include:

- Prepare program materials, including questionnaires and surveys, and assist the District in eliciting input into the ADA Self Evaluation process, as necessary. Assist the District with organizing project workshops as needed. Facilitate the workshop(s), maintain a record of the proceedings and comments and be prepared to answer questions within the area of expertise.
- Collect information related to policies, procedures, practices and services (by means of interviews, questionnaires, surveys or other means satisfactory to District and Colleges).
- Evaluate, in conjunction with District and College representatives, District and College policies, procedures, practices and services to determine compliance with the ADA.
- Organize, in cooperation with the District, Irvine Valley College and Saddleback College, outreach opportunities for interested persons, including individuals with disabilities or organizations representing individuals with disabilities, to participate in the self-evaluation process by submitting comments

Deliverables:

- a) Summary of meeting notes with District and College representatives and key stakeholders
- b) A list of the interested persons consulted
- c) A description of areas examined and any problem identified
- d) A description of any modifications made

3. Task 3: Recommendations Phase

CONSULTANT shall provide recommendations of corrective actions to achieve compliance with the ADA including the presentation of best practice templates for typical accommodation policies and procedures. CONSULTANT will facilitate the prioritization process for identified corrective actions.

Deliverables:

- a) Draft and final versions of Research and Analysis Findings and Recommendations.
- b) Best practice templates for typical accommodation policies and procedures
- c) Prioritized list of SOCCCD'S identified corrective actions based on CONSULTANT'S facilitation.

- 3.2. **Technical Qualifications.** CONSULTANT is experienced with consulting with school districts in facilitating ADA Self Evaluations. CONSULTANT staff shall include Certified Access Specialists certified through the Division of the State Architect as authorized by Government Code Section 4459.5-4459.8 and will provide evidence of required certification.
- 3.3. **Qualified Personnel.** The CONSULTANT shall provide enough qualified personnel to properly perform services required under this AGREEMENT and DISTRICT shall have the right to remove any of CONSULTANT'S personnel from the PROJECT.
- 3.4. **Regulatory Compliance.** The CONSULTANT shall comply with all applicable federal, state and local laws, statutes, ordinances, codes, rules and regulations currently existing and as amended, enacted, issued or adopted in the future and which are applicable to the PROJECT.
- 3.5. **Associated Regulatory Codes.** The CONSULTANT shall prepare and submit to DISTRICT an outline of applicable provisions of regulations that apply to any PROJECT.
- 3.6. **Project Initiation Phase.**
 - a. Participate in a general Project kick-off meeting to include the CONSULTANT'S and DISTRICT staff.
 - b. Before beginning work, the CONSULTANT shall submit to the DISTRICT a written preliminary estimate of the total PROJECT cost and shall advise the DISTRICT, in writing, of any adjustments to the estimate of PROJECT Cost.
 - c. CONSULTANT must respond to/incorporate DISTRICT comments during the various PROJECT phases.
- 3.7. **Coordination for Government Authorities.** The CONSULTANT shall file documents required for the approval of governmental authorities having jurisdiction over the PROJECT.
- 3.8. **Evaluate Performance.** The CONSULTANT shall evaluate the performance of associates under the requirements of the PROJECT when requested in writing by the DISTRICT.
- 3.9. **Coordination of Others.** The CONSULTANT may be asked to coordinate PROJECT performed by separate contractors or by the DISTRICT'S own employees.

ARTICLE 4 ADDITIONAL CONSULTANT'S SERVICES

- 4.1. **Additional Services.** Additional services are not included in the Services set forth previously. If the DISTRICT requests in writing any of the Additional Services, CONSULTANT shall be compensated for the same in accordance with the provisions of the Agreement relating to Additional Services and the amounts indicated in Exhibit for Additional Services. The Board of Trustees of the District must approve an amendment to this Agreement, fully executed, prior to CONSULTANT performing any Additional Services. The CONSULTANT shall request payment for Additional Services in a separate line item on the same invoice submitted for Services in a format pre-approved by the DISTRICT
- 4.2. **Notification and Authorization.** CONSULTANT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the CONSULTANT'S control. CONSULTANT shall obtain written authorization from the DISTRICT before rendering such services. Compensation for such services shall be compensated based on attached standard hourly rates. Such services shall include:
 - a. Regulatory Revisions. Making material revisions in documents when such revisions are required by the enactment or revision of laws, rules or regulations subsequent to the preparation of such documents.
 - b. Scope Change after Phase Approvals. Providing services required because of significant changes made in the PROJECT after approval of each phase of the work including, but not limited to, size, quality, complexity, or the DISTRICT'S schedule, except for services required under changes related to design errors or omissions.
 - c. Legal Services. Providing services in connection with an arbitration proceeding or legal proceeding except where the CONSULTANT is a party thereto.
 - d. Consultant Coordination. Providing services, other than coordination and incorporation of information into the design documents, in connection with the work of consultants retained by the DISTRICT.

ARTICLE 5 TERMS OF SERVICE

- 5.1. **Time is of the Essence.** Time is of the essence in the performance of each Party's obligations under this Agreement, including without limitation CONSULTANT'S performance of the service required hereunder and DISTRICT'S payment of all sums due to CONSULTANT .
- 5.2. **Term.** Services under this Agreement shall be diligently performed by the CONSULTANT for 9 months.
- 5.3. **Billing Rate.** Should services be necessary after the expiration of contract duration, they can be provided in accordance with the Billing Rates as provided in EXHIBIT B.
- 5.4. **Suspension Notice.** DISTRICT may suspend this Agreement at any time without penalty by written notice to CONSULTANT of such suspension.

ARTICLE 6 INDEMNITY AND INSURANCE

- 6.1. To the fullest extent permitted by law, CONSULTANT agrees to indemnify and hold the DISTRICT and its Board of Trustees, officers, employees and agents harmless from all liability arising out of:
- a. **Workers Compensation and Employer's Liability.** Any and all claims under workers' compensation acts and other employee benefit acts with respect to CONSULTANT'S employees or CONSULTANT'S subcontractor's employees arising out of CONSULTANT'S work under this agreement; and
 - b. **General Liability.** If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the CONSULTANT, the CONSULTANT shall indemnify and hold the DISTRICT harmless from any liability for damages for (i) death or bodily injury to person; (ii) injury to, loss or theft of property; (iii) any failure or alleged failure to comply with any provision of law; or (iv) any other loss, damage or expense arising under either i, ii, and iii above, sustained by the CONSULTANT or the DISTRICT, or any person, firm or corporation employed by the CONSULTANT or the DISTRICT upon or in connection with the Project, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents or independent CONSULTANTS who are directly employed by the DISTRICT.
 - c. The CONSULTANT, at its own expense, cost and risk, shall defend any and all claims, actions, suits, or other proceedings that may be brought or instituted against the DISTRICT (other than professional negligence covered by section below, its officers, agents, or employees, that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the CONSULTANT, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents, or employees, in any action, suit or other proceedings as a result thereof; and
- 6.2. **Purchase and Maintain Insurance.** CONSULTANT shall purchase and maintain project specific insurance with an insurer or insurers, qualified to do business in the State of California and acceptable to DISTRICT policies of insurance, which will protect CONSULTANT and DISTRICT from claims which may arise out of or result from CONSULTANT'S actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:
- a. **Statutory Workers' Compensation and Employers' Liability.** CONSULTANT shall purchase and maintain Workers' Compensation Insurance covering claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts under which CONSULTANT may be liable. CONSULTANT shall purchase and maintain Employer's Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee's employment by CONSULTANT. The Employer's Liability Insurance required of CONSULTANT hereunder may be obtained by CONSULTANT as a separate policy of insurance or as an additional

coverage under the Worker's Compensation Insurance required to be obtained and maintained by CONSULTANT hereunder.

- b. **Comprehensive general and auto liability.** CONSULTANT shall purchase and maintain Commercial General Liability and Property Insurance as will protect CONSULTANT from the types of claims set forth below which may arise out of or result from CONSULTANT'S services under this Agreement and for which CONSULTANT may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than CONSULTANT'S employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by CONSULTANT, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance of use of a motor vehicle; (v) contractual liability insurance applicable to CONSULTANT'S obligations under this Agreement; and (vi) for completed operations.

Comprehensive general and auto liability insurance with limits of not less than 1,000,000 combined single limit, bodily injury and property damage liability per occurrence, including:

1. owned, non-owned and hired vehicles;
2. blanket contractual;
3. broad form property damage;
4. products/completed operations; and
5. personal injury.

- c. **Professional liability insurance.** Professional liability insurance, including contractual liability, with limits of 1,000,000. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least 5 years thereafter if available to the professional and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that CONSULTANT subcontracts or assigns any portion of his/her duties, he/she shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph.

- d. **Additional Insured.** Each policy of insurance required in (a) and (b) above shall name DISTRICT and its officers, agents and employees as additional insureds; shall state that, with respect to the operations of CONSULTANT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation; and, shall waive all rights of subrogation. CONSULTANT shall notify DISTRICT in the event of material change in, or failure to renew, each policy.

6.3. **State Authorized Insurers.** All policies of insurance required hereunder shall be issued by insurer(s) authorized to issue insurance by the State of California and to the reasonable satisfaction of the DISTRICT. Coverages under each policy of insurance, whether by endorsement or otherwise, shall provide that such policy will not be materially modified, canceled or allowed to expire without at least thirty (30) days advance written notice to the District.

6.4. **Insurance Evidenced.** Prior to commencing work, CONSULTANT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event CONSULTANT fails to secure or maintain any policy of insurance required hereby excepting professional liability, DISTRICT may, at its sole discretion, secure such policy of insurance in the name of and for the account of CONSULTANT, and in such event CONSULTANT shall reimburse DISTRICT upon demand for the cost thereof.

6.5. **Coverage Amounts**

Insurance Policy	Minimum coverage Amount
Workers Compensation	In accordance with applicable law
Employers Liability	One Million dollars (\$1,000,000)

ARTICLE 7 COMPENSATION TO THE CONSULTANT

7.1. **Contract Price for Services.** The Contract Price for the CONSULTANT’S performance of the Services under this Agreement shall consist of the following lump sum prices:

a.	Task 1: Project Initiation Phase	10%
b.	Task 2: Research and Analysis Phase	
	Prepare Program Materials/organize workshops	10%
	Collect information	20%
	Evaluate policies, procedures, practices and services	20%
	Organize outreach	10%
c.	Task 3: Recommendation Phase	
	Prepare and present recommendations	20%
	Prepare and present best practice templates	10%
	TOTAL	100%

7.2. **Price Inclusions.** The Contract Price is inclusive of personnel expenses (inclusive of all benefits and burdens), fees and personnel expenses of any sub-consultant or subcontractor to the CONSULTANT , travel for personnel to and from the Site, travel within the Counties of Los Angeles, Orange, Riverside, San Diego, San Bernardino and Ventura, insurance and all other

overhead/administrative expenses or costs associated with performance of the Services, except for Allowable Reimbursable Expenses described in this Agreement. At no time shall meals be considered a reimbursable expense.

- 7.3. **CONSULTANT Monthly Billing Statements.** CONSULTANT shall submit monthly billing invoices to the DISTRICT for payment of the Contract Price for Services, authorized Additional Services, and previously approved and allowable Reimbursable Expenses performed or incurred in the immediately prior month in a format previously approved by the DISTRICT. Previously approved and allowable Reimbursable Expenses shall be itemized and evidence shall be provided of the cost or value of any Allowable Reimbursable Expense costs for which payment is requested by CONSULTANT.
- 7.4. **DISTRICT Payment of Contract Price.** Within thirty (30) days of the date of the DISTRICT'S receipt of CONSULTANT'S billing invoices, DISTRICT will make payment to CONSULTANT of undisputed amounts of the Contract Price due for Services, authorized Additional Services, and Allowable Reimbursable Expenses.
- 7.5. **Withholding Payment.** The DISTRICT may withhold or deduct from amounts otherwise due CONSULTANT hereunder if CONSULTANT shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CONSULTANT has fully cured its failure of performance, less costs, damages or losses sustained by the DISTRICT as a result of such failure of performance of a material obligation hereunder.
- 7.6. **Payment in Full.** This compensation shall be compensation in full for all services performed by the CONSULTANT under the terms of this AGREEMENT, except where additional compensation is agreed upon between the CONSULTANT and DISTRICT in writing as provided for as additional services.
- 7.7. **Monthly Payments.** Payments for CONSULTANT services shall be made monthly on the basis set forth in this article.
- 7.8. **Late payments.** Invoices shall be on a form and in the format approved by the DISTRICT. Payments are due and payable upon receipt of the CONSULTANT'S invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the legal rate prevailing at the time, at the site of the PROJECT.
- 7.9. **Schedule Delay.** To the extent that the time initially established for the completion of CONSULTANT'S services is exceeded or extended through no fault of the CONSULTANT, compensation for any services rendered during the additional period of time may be computed as follows: at standard hourly rates (See EXHIBIT B) or as a fixed fee.
- 7.10. **Reimbursable Expenses** incurred by the CONSULTANT and CONSULTANT'S employees in the interest of the PROJECT shall have prior DISTRICT written approval before incurred and records of such expenses shall be provided to DISTRICT for the DISTRICT'S review. The District shall not be liable to CONSULTANT for any costs or expenses paid or incurred by CONSULTANT in performing

services for DISTRICT, except reimbursable expenses that have been pre-approved in writing. Expenses may be invoiced during the monthly pay request at cost plus 10% markup.

- a. Reimbursable expenses are in addition to compensation for Original and Additional Services and include expenses incurred by the CONSULTANT and CONSULTANT'S employees in the interest of the PROJECT.
- b. Reimbursable expenses shall be expense of transportation in connection with the PROJECT; expenses in connection with authorized out-of-town travel; long-distance communications; and fees paid for securing approval of authorities having jurisdiction over the PROJECT. CONSULTANT'S normal travel expense (including to and from the PROJECT) and meals are excluded.
- c. Expense of reproductions (except those needed for the use of the CONSULTANT and his or her consultants or identified specifically as a deliverable), postage and handling of Drawings, Specifications and other documents are reimbursable upon DISTRICT'S prior written approval.
- d. If authorized in advance in writing by the DISTRICT, expense of overtime work requiring higher than regular rates will be reimbursed.
- e. Expense of renderings, models and mock-ups requested by the DISTRICT if not part of CONSULTANT'S Services will be reimbursed.
- f. For reimbursable expenses, compensation shall be computed at a multiple of 1.05 times the expenses incurred by the CONSULTANT, the CONSULTANT'S employees and consultants in the interest of the PROJECT.
- g. For additional services of CONSULTANTS, compensation shall be computed at a multiple of 1.1 times the amounts billed to the CONSULTANT for such services.

7.11. **Non Waiver of Rights.** Neither the DISTRICT'S review, approval of, nor payment for, any of the services required under this Agreement shall be construed to operate as a waiver of any rights under this Agreement, and CONSULTANT shall remain liable to the DISTRICT in accordance with applicable law for all damages to the DISTRICT caused by CONSULTANT'S failure to perform any of the services furnished under this Agreement.

ARTICLE 8 CONSULTANT'S WORK PRODUCT

8.1. **District Ownership of Documents.** The documents prepared by the CONSULTANT for this PROJECT shall be and remain the property of the DISTRICT pursuant to Education Code Section 17316. Such documents supplied as herein required shall be the property of the DISTRICT whether or not the work for which they were made is executed. CONSULTANT grants to DISTRICT the right to reuse all or part of the fore mentioned documents at its sole discretion for the construction of all or part of this or another PROJECT constructed for the DISTRICT. If the documents are reused for another project constructed for the DISTRICT, then the DISTRICT agrees that CONSULTANT shall not be responsible for any reuse of the documents. The DISTRICT is not bound by this

AGREEMENT to employ the services of CONSULTANT in the event such drawings, specifications and/or other documents are reused. CONSULTANT grants to the DISTRICT the right to copy, use, modify, and reuse any and all copyrights and designs embodied in the plans, specifications and other documents prepared or caused to be prepared by the CONSULTANT pursuant to this AGREEMENT.

- 8.2. **Documentation.** The CONSULTANT shall make a written record of all meetings, conferences, discussions and decisions made between or among the DISTRICT and CONSULTANT during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The CONSULTANT shall provide a draft copy of such record to the DISTRICT for review and comment, make adjustments and provide a final copy to the DISTRICT.
- 8.3. **Electronic Copy of Documents.** The CONSULTANT shall perform the work under this agreement using DISTRICT approved software and shall deliver electronic copy via CD, DVD or thumb drive in both the software format and PDF format upon completion of the PROJECT requirements. If work is terminated prior to PROJECT completion, a copy of the work completed to date shall be provided to the DISTRICT.
- 8.4. **Copyright/Trademark/Patent.** CONSULTANT understands and agrees that all matters produced under this AGREEMENT shall become the property of DISTRICT and cannot be used without DISTRICT'S express written permission. DISTRICT shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the DISTRICT. CONSULTANT consents to the use of CONSULTANT'S name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

ARTICLE 9 TERMINATION

- 9.1. **Termination for Convenience.** DISTRICT may, at any time, with or without reason, terminate this AGREEMENT and compensate CONSULTANT only for services satisfactorily rendered to the date of termination. 30 day written notice by DISTRICT shall be sufficient to stop performance of services by CONSULTANT. Notice shall be considered applicable as of the date established on the termination notice and deemed given when received by the CONSULTANT or no later than three days after the day of mailing, whichever is sooner.
- 9.2. **Termination for Cause.** DISTRICT may terminate this AGREEMENT upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this AGREEMENT by the CONSULTANT; or (b) any act by CONSULTANT exposing the DISTRICT to liability to others for personal injury or property damage; or (c) CONSULTANT is adjudged a bankrupt, CONSULTANT makes a general assignment for the benefit of creditors or a receiver is appointed on account of CONSULTANT'S insolvency. Written notice by DISTRICT shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this AGREEMENT shall upon the expiration of the ten (10) days cease and terminate. In the event of

such termination, the DISTRICT may secure the required services from another contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to DISTRICT. Written notice by DISTRICT shall be deemed given when received by the other party or no later than three days after the day of mailing, whichever is sooner.

- 9.3. **Termination by Either Party.** This AGREEMENT may be terminated without cause by the DISTRICT upon not less than 7 days written notice to the CONSULTANT. This AGREEMENT may be terminated by either party upon not less than 7 days written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination.
- 9.4. **Suspension of PROJECT.** The District may suspend this Agreement at any time without penalty by written notice to CONSULTANT of such suspension. The Suspension Notice shall set forth the reason for the suspension, the anticipated term of the suspension and shall be provided to the CONSULTANT not less than fifteen days prior to the suspension date. If the PROJECT is suspended by the DISTRICT for more than ninety consecutive days, the CONSULTANT shall be compensated for services satisfactorily performed prior to such suspension. When the PROJECT is resumed, the CONSULTANT'S compensation shall be equitably adjusted to provide for expenses incurred in the interruption and resumption of the CONSULTANT'S services.
- 9.5. **Abandonment of PROJECT.** If the DISTRICT abandons the PROJECT for more than ninety consecutive days, the CONSULTANT shall be compensated for services satisfactorily performed prior to the abandonment and CONSULTANT may terminate this AGREEMENT by giving not less than 7 days written notice to the DISTRICT.
- 9.6. **Non Payment.** The DISTRICT'S failure to make payments to the CONSULTANT in accordance with this AGREEMENT shall be considered substantial nonperformance and cause for termination by the CONSULTANT.
- a. In the event the DISTRICT fails to make timely payment, the CONSULTANT may, upon 7 days written notice to the DISTRICT, suspend performance of services under this AGREEMENT.
 - b. Unless payment in full is received by the CONSULTANT within 7 days of the date of the notice, the suspension shall take effect without further notice.
 - c. In the event of a suspension of services, the CONSULTANT shall have no liability to the DISTRICT for delay or damage caused the DISTRICT because of such suspension of services.
- 9.7. **CONSULTANT Compensation.** The CONSULTANT shall be compensated for services satisfactorily performed prior to a termination which is not the fault of the CONSULTANT. The DISTRICT shall pay the CONSULTANT only the fee associated with the services provided, since the last billing and up to the notice of termination.
- 9.8. **Liability for District Damages.** In the event of termination due to the fault of CONSULTANT, CONSULTANT shall receive compensation due for services satisfactorily rendered prior to the date

of termination. The CONSULTANT is liable for all damages suffered by the DISTRICT due to CONSULTANT'S failure to perform as provided in the AGREEMENT.

ARTICLE 10 DISPUTES, MEDIATION AND ARBITRATION

- 10.1. **Work to Continue.** In the event of a dispute between the parties as to performance of the work, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute. Pending resolution of the dispute, CONSULTANT agrees to continue to diligently perform and provide services hereunder until completion of the work. If the dispute is not resolved, CONSULTANT agrees it will neither rescind this Agreement nor stop the progress of the work. The DISTRICT and CONSULTANT agreed that, in the event that a dispute comes to litigation, each party will bear its own legal expenses.
- 10.2. **Mediation Requirements.** All claims, disputes or controversies arising out of or relating to the PROJECT or to this agreement or the breach thereof shall be first attempted to be resolved through mediation.
- 10.3. **Arbitration.** If mediation is unsuccessful, claims, disputes or controversies arising out of or relating to this AGREEMENT will be decided by arbitration in accordance with the American Arbitration Association then prevailing unless the parties mutually agree otherwise.
- a. No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the CONSULTANT, District and any other person sought to be joined. Consent to arbitration involving an additional person or persons shall not constitute consent to arbitration of any dispute not described therein or with any person not named therein.
 - b. This agreement to arbitrate shall be specifically enforceable under applicable law in any court having jurisdiction thereof.
 - c. Notice of demand for arbitration shall be filed in writing with the other party to this AGREEMENT in accordance with the rules of the American Arbitration Association. The demand shall be made within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when institution of legal or equitable proceedings based upon such claim, dispute or other matter in questions would be barred by the applicable statutes of limitation.
 - d. In any judicial proceeding to enforce this agreement to arbitrate, the only issues to be determined shall be those set forth in 9 U.S.C. Section 4 Federal Arbitration act and such issues shall be determined by the court without a jury. All other issues, such as, but not limited to, arbitrability, prerequisites to arbitration, compliance with contractual time limitations, applicability of indemnity clauses, clauses limiting damages and statutes of limitation shall be for the arbitrators whose decision thereon shall be final and binding. There shall be no interlocutory appeal of an order compelling arbitration.

- e. The award rendered by the arbitrators shall be final and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.
- f. Unless otherwise provided, this Agreement shall be governed by the law of the state and county where the Project is located.

ARTICLE 11 DISTRICT'S RESPONSIBILITIES

- 11.1. **District Provided Information.** The DISTRICT shall provide to the CONSULTANT full information regarding requirements for the PROJECT, including information regarding the DISTRICT'S objectives, schedule, constraints and criteria.
- 11.2. **District Representative.** The DISTRICT shall appoint a representative authorized to act on the DISTRICT'S behalf with respect to the PROJECT. The DISTRICT or its authorized representative shall render decisions in a timely manner pertaining to documents submitted by the CONSULTANT. CONSULTANT shall consult with authorized employees, agents, and representatives of DISTRICT relative to the design and construction of the Project. However, CONSULTANT shall accept directives only from DISTRICT'S designated representative and not from other DISTRICT employees or consultants. The DISTRICT shall notify CONSULTANT in writing if, at its sole option, it makes a change in the DISTRICT representative. Unless modified by written notice by the DISTRICT to the CONSULTANT, the DISTRICT Representative is:

Mark Schoepner, Construction Manager
- 11.3. **District Notification.** The DISTRICT shall give prompt written notice to the CONSULTANT if the DISTRICT becomes aware of any fault or defect in the PROJECT or nonconformance with the PROJECT intent. However, the DISTRICT'S failure or omission to do so shall not relieve the CONSULTANT of his/her responsibilities hereunder and the DISTRICT shall have no duty to observe, inspect or investigate the PROJECT.
- 11.4. **DISTRICT Consultants.** Other consultants required or desired by the DISTRICT in connection with the PROJECT shall be retained and paid for by the DISTRICT. Such other consultants include, but may not be limited to legal counsel, insurance consultants, and ADA Self Evaluation consultants.
- 11.5. **Project Description.** The DISTRICT shall furnish a description of the PROJECT as required.
- 11.6. **Reliable Information.** The CONSULTANT may rely on the information provided by DISTRICT but only to the extent such reliance is consistent with CONSULTANT'S obligations under this agreement.

ARTICLE 12 MISCELLANEOUS

- 12.1. **Affirmative Action.** CONSULTANT agrees that CONSULTANT will not engage in unlawful discrimination in employment of persons because of race, ethnicity, religion, nationality, disability, gender, marital status or age of such persons.
- 12.2. **Compliance with Applicable Laws.** The services completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT'S general right of inspection to secure the

satisfactory completion thereof. CONSULTANT agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to CONSULTANT, CONSULTANT'S business, equipment and personnel engaged in services covered by this AGREEMENT or accruing out of the performance of such services.

- 12.3. **CONSULTANT Accounting Records.** Pursuant to and in accordance with the provisions of Government Code Section 8546.7 or any amendments thereto, all books, records, and files of the DISTRICT and the CONSULTANT, including, but not limited to the costs of administration of this Agreement, shall be subject to examination and audit of the State Auditor at the request of the DISTRICT or as part of any audit of the DISTRICT for a period of three (3) years after final payment is made under this agreement. During this time, CONSULTANT shall maintain accounting records and make them available upon request of the DISTRICT for reproduction or inspection.
- 12.4. **Review, Approval or Acceptance.** Review, approval or acceptance of CONSULTANT'S work whether by DISTRICT or others, shall not relieve CONSULTANT from responsibility for errors and omissions in CONSULTANT'S work.
- 12.5. **Cumulative Rights; Non Waiver.** Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or inequity. The failure of DISTRICT or CONSULTANT to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this AGREEMENT shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.
- 12.6. **Employment with Public Agency.** CONSULTANT, if an employee of another public agency, agrees that CONSULTANT will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this AGREEMENT. Additionally, No member, officer or employee of the DISTRICT during tenure or for one year thereafter, shall have any interest direct or indirect, in this Agreement or the proceeds thereof.
- 12.7. **Governing Law.** This AGREEMENT shall be governed by the laws of the State of California. The duties and obligations of the parties created hereunder are performable in Orange County and such county shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.
- 12.8. **Independent Contractor.** CONSULTANT, in the performance of this AGREEMENT, shall be and act as an independent contractor. CONSULTANT understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT'S employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONSULTANT assumes the full responsibility for the acts and/or omissions of his or her employees or agents as they relate to the services to be provided under this AGREEMENT. CONSULTANT shall assume full responsibility for

payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective CONSULTANT'S employees.

- 12.9. **Marginal Headings; Captions.** The titles of the various Paragraphs of the Agreement and the Articles of these Conditions are for convenience of reference only and are not intended to and in no way shall enlarge or diminish the rights or obligations of CONSULTANT and DISTRICT hereunder.
- 12.10. **Non-Assignment.** The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other party to this AGREEMENT with respect to the terms of this AGREEMENT. The obligations of the CONSULTANT pursuant to this AGREEMENT shall not be assigned by the CONSULTANT. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of any third party against either the DISTRICT or CONSULTANT. The sale or transfer of a majority membership interest in CONSULTANT firm or the admission of new member to the CONSULTANT firm which causes there to be a change in majority ownership and / or control of CONSULTANT firm shall be deemed and assignment for purposes of this Agreement. Nothing contained in this Agreement is intended to make any person or entity who is not a signatory to the Agreement a third party beneficiary of any right created by the Agreement or by operation of law.
- 12.11. **Permits/Licenses.** CONSULTANT and all CONSULTANT'S employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this AGREEMENT.
- 12.12. **Notifications.** All notices or demands to be given under this AGREEMENT by either party to the other shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served requiring signature acknowledging receipt, or if mailed, on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section.
- 12.13. **Communications** between the parties shall be sent to the following addresses:

DISTRICT
Mark Schoeppner
South Orange County
Community College District
28000 Marguerite Parkway
Mission Viejo, CA 92692
Email

CONSULTANT
Principal Contact
Company Name

Company Address
Company Address
Email

COPY
Dr. Debra L. Fitzsimons
South Orange County
Community College District
28000 Marguerite Parkway
Mission Viejo, CA 92692

dfitzsimons@socccd.edu

- 12.14. **Severability.** If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted here from, but all remaining provisions will remain and continue in full force and effect.
- 12.15. **Entire Agreement / Amendment.** This AGREEMENT and any exhibits attached hereto represent the entire AGREEMENT between the DISTRICT and CONSULTANT and supersede all prior negotiations, representations or agreements, either written or oral with respect to the services contemplated. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the CONSULTANT.
- 12.16. **Binding Agreement.** The DISTRICT and CONSULTANT, respectively, bind themselves, their partners, officers, successors, assigns and legal representatives to the other party to this AGREEMENT with respect to the terms of this AGREEMENT.

This AGREEMENT entered into as of the day and year first written above.

CONSULTANT

DISTRICT

Insert Firm Name

South Orange County Community College District

Insert Name

Dr. Debra L. Fitzsimons

Insert Title

Vice Chancellor, Business Services

(Date)

(Date)

(Taxpayer number)

Attachment A Criteria for Billing and Extra Work

ATTACHMENT A CRITERIA AND BILLING AND EXTRA WORK

A. The following extra services to this Agreement shall be performed by CONSULTANT if needed and requested by the DISTRICT.

1. Making revisions in documents when such revisions are:
 - a. Inconsistent with approvals or instructions previously given by the DISTRICT.
 - b. Required by the enactment or revisions of codes, laws or regulations subsequent to the preparations of such documents.
 - c. Due to changes required as a result of the DISTRICT’S failure to respond to a written request from the CONSULTANT within a reasonable time, as requested by CONSULTANT.
2. Providing services required because of significant documented changes in the Project initiated by the DISTRICT, including but not limited to, size, quality, complexity, the DISTRICT’S schedule.

B. The following rates which include overhead, administrative cost and profit shall be utilized in arriving at the fee for initial and extra services. The hourly rates reflected below shall be effective as of the date of execution of this Contract and shall be revised each twelve (12) months; thereafter based upon changes in the Consumer Price Index for the previous twelve month period, using the CPI for the geographical area of the CONSULTANT.

<u>CONSULTANT Services</u>	<u>Fee Per Hour</u>
Project Executive	\$XXX
Project Manager	\$XXX
Lead Project CONSULTANT	\$XXX
To be determined	\$XXX
To be determined	\$XXX

SAMPLE: CRITERIA AND BILLING FOR EXTRA WORK

The following rates which include overhead, administrative cost and profit shall be utilized in arriving at the fee for extra services. The hourly rates reflected below shall be effective by date of execution of this Contract and shall be revised each twelve (12) months; thereafter, based upon changes in the Consumer Price Index for the previous twelve month period, using the CPI for the geographical area of the CONSULTANT.

<u>CONSULTANT Services</u>	<u>Fee Per Hour</u>
Principal	\$XXX
Associate	\$XXX
Project Manager	\$XXX
Clerical	\$XXX

Additional positions may be included as required

RFQ & P - Attachment E
South Orange County Community College District
ADA Self Evaluation Services RFQ & P
Qualification Matrix

TAB	Description
1	<p>Cover Letter</p> <p>Provided as required</p>
2	<p>Table of Contents</p> <p>Provided as required</p>
3	<p>Executive Summary</p> <p>Include an outline of your general plan and a brief summary of approach and qualifications.</p>
4	<p>Experience</p> <p>Experience with ADA Self Evaluations, particularly community college projects: Indicate number of projects completed.</p> <p>Professional registrations, certifications and affiliations.</p> <p>Description of Services Provided and listing of Clients Served.</p> <p>Insurance Information provided.</p> <p>Information on termination for default, litigation settled or judgments entered within the last five (5) years.</p> <p>Information on termination for default, litigation settled or judgments entered within the last five (5) years.</p>
5	<p>Personnel</p> <p>Identified Certified Access Specialist(s): Indicate number on staff.</p> <p>Additional support staff</p>

6 Scope of Work and Methodology

Method of ADA Self Evaluations

Method of developing reports

Training of designated district staff

The consultant may recommend refinements, suggestions or brief restatements of the scope of work in this section.

7 Services

Define which services will be provided in-house and those for which you will hire consultants.

Define the number of years you have worked with each consultant proposed as part of potential project teams.

8 Additional Data

Provide additional information about the firm as it may relate to this RFQ&P.

9 Professional Fees - Fee Proposal in Sealed Envelope

Provide Fixed Fee proposals for the total fee in a sealed envelope. Provide hourly rates for all proposed staff positions as appropriate.

10 Client References

Conducting ADA Self Evaluations

Including letters of recommendation or testimonials

11 Agreement Review

Review and comment on any proposed modifications to the attached draft Agreement.

12 Certification signed w/correct # of addenda noted