

# REQUEST FOR QUALIFICATIONS AND PROPOSALS

**RFQ&P # 5047-2022**

**Workday Certified Partner Consulting Services**

## **SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT**

### **OVERVIEW:**

The South Orange County Community College District implemented Workday as its ERP in 2015 and currently have the modules/services identified in Section 2.b of this RFQ&P.

The District has a recurring and ongoing need for professional services from Workday Certified Partners. The District has made the determination that a pool of qualified Workday Certified Partners is required for various Workday projects over the next five years.

### **SCHEDULE:**

Notice Inviting Proposals	April 8, 2022
Deadline for RFIs submitted via email to the Purchasing Department at <a href="mailto:purchasing-dept@socccd.edu">purchasing-dept@socccd.edu</a> AND Herb Richter at <a href="mailto:hrichter@socccd.edu">hrichter@socccd.edu</a>	April 15, 2022 at 5:00 PM
<b>Deadline for Submittal of Proposals</b> via email to the Purchasing Department at <a href="mailto:purchasing-dept@socccd.edu">purchasing-dept@socccd.edu</a> AND Herb Richter at <a href="mailto:hrichter@socccd.edu">hrichter@socccd.edu</a>	<b>April 22, 2022 at 12:00 PM</b>
Anticipated Governing Board Approval	May 23, 2022
Anticipated Start Date	June 1, 2022

### **1. SCOPE OF WORK:**

The District intends to award Master Services Agreements (MSA) and subsequent Work Orders to a pool of Workday Certified Partners for various Workday projects over the next five years.

A sample list of anticipated projects over the next 12 Months is identified below:

- Implementation of 3<sup>rd</sup> Party Payroll
- Re-implementation of Grants Management
- Workday Studio Projects:
  - o Integrations
- Workday Extend Projects:
  - o Faculty Stipends
  - o Faculty Professional Development Tracking
  - o Workers' Compensation Claims
- Various Small Support Tasks (< 20 hours per task):
  - o Benefit and Absence Compliance Changes
  - o Human Resource Compliance Changes
  - o Recruiting Process Changes
  - o Composite Reports
  - o Grants and Award Changes

**2. RESPONSE SUBMISSION:**

Each Proposer’s response shall only consist of the items (a-d) shown below:

- a. Cover Letter (Limit 2 pages)
  - o Identify the Firm’s experience with providing Workday consulting services for higher education clients.
- b. A sample of the District’s Master IT Professional Services Agreement for Work Orders is attached. Please review and provide redlines, if any, for the District’s consideration. Firms proposing the least amount of redlines and/or accepting the District’s terms and conditions will be considered favorably. Alternatively, firms may submit their own Master Services Agreement for the District’s review and consideration.
- c. Identify which of the following Workday Certified Partner Service Modules your firm can provide:

<b>Workday SKU</b>	<b>Workday Service Description</b>	<b>Workday Certified? (YES or NO)</b>
CCB	Cloud Connect for Benefits	
CCTPP	Cloud Connect for Third Party Payroll	
EXP	Expenses	
FIN	Core Financials	
GM	Grants Management	
HCM	Human Capital Management	
HLP	Help	
JRNY	Journeys	
LRN	Learning	
LRNXX	Learning for Extended Enterprise	
MCNF	Media Cloud	
PB	Project Billing	
PLNF	Financial Planning	
PRA	Prism Analytics	
PRJT	Projects	
PRO	Procurement	
REC	Recruiting	
TT	Time Tracking	
XTND	Extend	

- d. Hourly Billable Rate Schedule for the following consultant roles. Please include any additional consultant roles not identified below. Rates shall include all labor, materials, overhead and profit (OH&P), and other direct and indirect costs including incidental travel. All rates will be subject to negotiation prior to issuance of any agreement. The hourly rates reflected below shall be firm and fixed for the entirety of the term of the Agreement.

<b>Consultant Role</b>	<b>Hourly Billable Rate</b>
Absence Management	
Adaptive Planning Lead	
Change Architect	
Compensation	

Compensation Analyst	
Data Conversion	
Data Conversion Analyst	
Developer - Extend	
Engagement Manager	
Functional Architect	
HCM	
HCM Analyst	
Integrations	
OC&T Lead	
Payroll	
Portfolio Director	
Prism	
Project Associate	
Recruiting	
Recruiting Analyst	
Reporting	
Strategy Architect	
Talent Management	
Talent Management Analyst	
Technical Analyst	
Technical Lead	
Time Tracking	
<i>Duplicate as necessary for additional consultant roles not identified above</i>	

**3. EVALUATION OF PROPOSALS:**

Firm’s responses shall be evaluated by a committee of District and/or College representatives. The selection criteria will include:

<b>Evaluation Matrix</b>	<b>Score</b>
Cover Letter	10 Points
Workday Certified Partner Service Modules	30 Points
Hourly Billable Rates	40 Points
Acceptance of District MSA with Limited Exceptions vs Firm’s Provided MSA	20 Points

**4. STANDARD TERMS & CONDITIONS:**

**AWARD WITHOUT DISCUSSION**

The District reserves the right to make an award without further discussion of the proposals received. Therefore, it is critical that all proposals submitted shall be in the most favorable terms possible, both economically and technically.

## **NO COMMITMENT TO AWARD AND RIGHT TO REJECT**

This RFQ&P does not constitute a commitment by the District to award a contract. The District reserves the right to waive any irregularities and/or informalities and to reject any or all proposals and/or to cancel the RFQ&Ps. The District expressly reserves the right to postpone proposal opening for its own convenience, to accept or reject any or all proposals received in response to this RFQ&P, to negotiate with more than one proposer concurrently, or to cancel all or part of this RFQ&P. The award shall be made on the proposal that serves the best interest of the District and will not be evaluated solely on a monetary basis; however, proposers are encouraged to submit their best prices in their proposals. Award will be based on proposer's qualification and best fit as deemed by the District. No contract award shall exist until executed and approved by the District's Governing Board.

## **CONTRACT COMMENCEMENT/TERM**

It is the intent of the District to commence the resulting contract/s as soon as possible. Performance period for this contract is anticipated to be from June 1, 2021 through May 31, 2026. Term shall not exceed five (5) years. After award, contract is subject to cancellation with 30-days written notice by either party. The timeline for completion of services shall be set forth in a duly issued Work Order pursuant to the agreement terms.

## **WORK ORDERS**

Pursuant to the terms and conditions of the awarded MSAs, the District may issue Work Orders on an as-needed, when needed basis to authorize services to the firm presenting the best combination of professional resource allocation and pricing. The award of MSAs as a result of this RFQ&P and all work performed pursuant to the awarded MSAs will be by issuance of a Work Order only. The award of MSAs is not a guaranteed award of work. When the District contemplates future Workday consulting services, the competitive process will continue with a project specific Work Order Request for Proposal issued to the awarded firms in the pool. There is no obligation to draw services from the pool and no prohibition to selecting services outside the pool for a specific project if it is considered in the best interest of the District.

## **ORDINANCES, LAWS AND REGULATIONS**

The Proposer shall comply with all ordinances, laws, and regulations pertaining to the operation contemplated hereby, including, but not limited to, the California Workers' Compensation Act, the Federal Equal Employment Opportunities Act, and the Americans with Disabilities Act. The Proposer shall apply for, obtain, and maintain in force all permits and licenses required by the various agencies of Federal, State, and local government having jurisdiction over the Proposer operations. All operations and materials shall be in accordance with all applicable Federal, State, County and City laws, statutes and requirements.

## **IRREVOCABLE OFFER**

Proposals shall be considered irrevocable offers for a period of one hundred and eighty (180) days from the date of receipt and may not be withdrawn during this period without consent of the District.

## **COST OF PREPARING PROPOSALS**

Any and all costs associated with the preparation of responses to this RFQ&P, including site visits, oral presentations and any other costs shall be entirely the responsibility of the Proposer and shall not be

reimbursable in any manner by the District.

### **NEGOTIATION**

District reserves the right to negotiate MSA terms and conditions and final pricing before award of Agreement and any future Work Order that may be issued.

### **AWARD OF CONTRACT**

The award will be made to the responsive and responsible firms judged to offer the most advantages and deemed the best fit for the District. At the time of the formal award, the apparent successful firms shall have agreed to contract terms representing the understandings between the parties as to terms and conditions which will govern the relationship of District and Proposer and the obligation of each party for performance of the Agreement.

### **PROPOSER CONDUCT**

During the RFQ&P window (from release of this RFQ&P to final award), proposer is not permitted to contact any District employees, members of the evaluation committee, members of the Board of Trustees or any consultant or professional retained by the District for the purpose of providing the District advice or professional services relating to the Project or the RFQ&P unless at the request of the District's designated contact person (Nick Newkirk, Purchasing and Contracts Manager) or to fulfill pre-existing contractual obligations. No gratuities of any kind will be accepted, including meals, gifts, or trips. Violation of these conditions may constitute immediate disqualification.

### **ACCESSIBILITY REQUIREMENTS**

Proposer hereby warrants that the Work to be provided under this Agreement complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C §794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 1194. Products covered under this provision include, without limitation, the following: Software applications; operating systems; web-based intranet and internet information and applications; telecommunications products; video or multimedia products; self-contained closed products such as copiers; source codes and desktop and portable computers. Proposer agrees to respond promptly and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Proposer further agrees to indemnify and hold harmless the District from and against any claim arising out of Proposer's failure to comply with these requirements. Proposer acknowledges that failure to comply with these requirements shall constitute a breach and be grounds for termination of this agreement or cancellation of the order.

## 5. SAMPLE AGREEMENT

The Respondent shall thoroughly review the below Agreement. As part of the proposal submission, indicate in a separate Tab of the RFQ&P Response the Respondent's acceptance of all terms and conditions set forth in the Agreement. If there is any term or condition of the Agreement, which a Respondent requests to be modified, the Respondent must: (i) specifically identify such term or condition; and (ii) set forth the specific text of the modification requested for each such term or condition. Notwithstanding any requested modification to any term or condition of the Agreement, no such modifications are binding on the District or enforceable against the District unless the District affirmatively and specifically accepts any such requested modification. Any Respondent whose RFQ&P Response does not identify requested modifications to terms or conditions of the Agreement will be deemed to have agreed to all terms and conditions set forth therein; if awarded the Agreement, such Respondent must execute the Agreement in the form and content attached hereto subject only to elements of such Respondent's RFQ&P Response accepted by the District.

Proposer agrees to the Agreement's terms and conditions with no exceptions.

YES                       NO

If no, pursuant to the above instructions, submit all exceptions in a separate tab.



**SOUTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT**  
**INFORMATION TECHNOLOGY PROFESSIONAL SERVICES AGREEMENT FOR WORK ORDERS**

This Professional Services Agreement (“Agreement”) is between South Orange County Community College District **[[ Campus Location ]]** (“District”), a California community college district and political subdivision of the State of California, and **[[ Name (Primary Second Party) ]]** (“Consultant”). District and Consultant are also referred to collectively as the “Parties” and individually as “Party.”

WHEREAS, District is in need of such special services and advice; and

WHEREAS, Consultant is specially trained and experienced and competent to perform the special services required by the District, and such services are needed on a limited basis; and

WHEREAS, District desires to obtain specialized services and/or advice stated in the Statement of Service and is hereinafter referred to as the “Project” or “Services,” located within the District.

NOW THEREFORE, in consideration of these mutual promises, the Parties agree as follows:

1. **STATEMENT OF SERVICE.** The Consultant’s services shall consist of those services performed by the Consultant and Consultant’s employees as enumerated in this Agreement, along with all aspects of services as identified in RFQ&P 5045-2022 Workday Certified Partner Consulting Services, referenced herein and made a part hereof as Attachment A and Consultant’s Proposal, referenced herein and made a part hereof as Attachment B. The Agreement, Attachment A and Attachment B shall collectively be defined as the “Services.” The Parties understand and agree that the Agreement shall be the prevailing and governing document and that Attachments A and B are intended to cooperate and be complementary.

As set forth herein, the District may pursuant to this Agreement, from time to time, issue Work Orders to Consultant authorizing certain work, and the provisions of this Agreement shall apply to all such Work Orders. Consultant shall not perform and District shall not be liable for any work performed by Consultant unless written authorization from District is given to Consultant in the form of such Work Order(s) prior to the performance of such work.

The Consultant shall provide to the District on the terms set forth herein, and within the time stipulated in each individual Work Order, all the services articulated in the Consultant’s scope of work (“Services”), which may be more particularly described in a Work Order issued pursuant to this Agreement. The Parties agree if there is a proposal or similar document that the terms of this Agreement shall be controlling over any of the terms contained within the Consultant’s proposal or similar document.

2. **KEY INDIVIDUAL ASSIGNMENT.** Consultant assignment for various Projects shall be assigned via Work Orders and will encompass the Consultant Roles identified in the Scope of the RFQ&P. The Consultant shall designate ENTER NAME as Engagement Manager. So long as their performance continues to be acceptable to the District, this named individual shall remain in charge of the engagement.
3. **REPLACEMENT OF KEY INDIVIDUAL.** If the designated Engagement 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. All key staff must also be designated by the Consultant and are subject to all conditions previously stated in this paragraph.
4. **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 assigned project deliverables. The IT Consultant shall perform its duties in accordance with this contract and associated Work Orders shall coordinate all work with District as necessary to complete contract requirements.
5. **PROJECT SCHEDULE.** The IT 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 the schedule shall not, except for reasonable cause, be exceeded by the Consultant.

6. **TERM.** The term of this Agreement shall begin June 1, 2022 and shall end May 31, 2026. This Agreement will not exceed five (5) years total. The time for completing the Services set forth in a Work Order shall be established in each individual Work Order issued to the Consultant. The District shall have the discretion to terminate this Agreement at any time by providing Consultant thirty (30) days prior written notice specifying the date of termination.

7. **PAYMENT.**

A. **Consultant Hourly Rate Schedule.** The hourly billable rates include fully burdened hourly rates for each individual consultant identified to perform work for any assigned project. The rates identified below shall be firm and fixed for the entirety of the term of the Agreement at a not to exceed amount payable for the highest qualified, experienced and skilled consultant/s assigned to any of the services identified below.

Consultant Role	Hourly Billable Rate
Absence Management	
Adaptive Planning Lead	
Change Architect	
Compensation	
Compensation Analyst	
Data Conversion	
Data Conversion Analyst	
Developer - Extend	
Engagement Manager	
Functional Architect	
HCM	
HCM Analyst	
Integrations	
OC&T Lead	
Payroll	
Portfolio Director	
Prism	
Project Associate	
Recruiting	
Recruiting Analyst	
Reporting	
Strategy Architect	
Talent Management	
Talent Management Analyst	
Technical Analyst	
Technical Lead	
Time Tracking	

B. **Compensation Only Upon Work Order Execution.** Consultant shall not be entitled to any compensation for any services unless and until a written Work Order has been issued by the District. Upon issuance of such a Work Order, Consultant agrees to perform basic Services provided by this Agreement and the Work Order, and District agrees to pay Consultant for such Services in accordance with the fee schedule set forth above and confirmed as a not to exceed price in the Work Order. The District will not pay any reimbursable expenses of the Consultant and the total contract not to exceed amount shall include all costs for the services rendered. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, unless otherwise specifically stated in this Agreement. The District may withhold, or on account of subsequently discovered evidence, nullify the whole or a part of any payment to such extent as may be necessary to protect the District from loss, including costs and attorneys' fees, on account of:

- i. Defective or deficient work product not remedied;
- ii. Failure of the Consultant to make payments properly to its employees or sub-consultants; or
- iii. Failure of Consultant to perform its services in a timely manner so as to conform to Project



schedule.

- C. **Reimbursement of Expenses.** The District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for the District, unless otherwise specifically stated in this Article. The Consultant's mileage and travel time shall not be considered as an allowable reimbursable expense. The descriptive categories of expenses that may be considered for reimbursement shall be calculated in accordance with the rates set forth and are as follows, and any other reimbursable expenses must be approved in writing by the District:
- i. Approved reproduction of reports and/or other documents in excess of the copies required by this Agreement;
  - ii. Fees advanced for securing approval of authorities in connection with the Services rendered pursuant to this Agreement;
  - iii. Cost of UPS, Federal Express, and other deliverables; and
  - iv. Cost of subconsultants hired by Consultant with prior written approval of District.
- D. **Payment in Full.** This compensation shall be compensation in full for all services performed by the Consultant under the terms of this Agreement and assigned Work Order, except where additional compensation is agreed upon between the Consultant and District in writing as provided for as additional services.

8. **INVOICES.** Consultant to send invoices to [AccountsPayable@socccd.edu](mailto:AccountsPayable@socccd.edu) or mail to South Orange County Community College District, 28000 Marguerite Parkway, Mission Viejo, CA 92692, Attn: Accounts Payable. Payment shall be net 30 days upon satisfactory completion and acceptance of Services. If payment term differs, it must be noted in Article 3. **To ensure prompt and accurate payment, all invoices related to this agreement shall reference the following Agreement Number: DSIT-ITPSA-5047-2022**

All District-authorized expenses shall be documented with original receipts and shall be pre-approved in writing by District, unless such expenses are specifically authorized by this Agreement. Invoices shall include the invoice date, date(s) of service(s), District's Purchase Order number, and Consultant's Taxpayer Identification Number. Invoices shall be paid on a "net 30-day basis" for Work satisfactorily rendered (as determined by the District) pursuant to this Agreement. An invoice cannot be paid unless this Agreement has been signed by Consultant and has been properly executed by District, and Consultant has submitted a completed Vendor Form/Substitute Form W-9 to District's Contract and Procurement Services Department.

9. **MATERIALS AND EXPENSES.** Consultant shall furnish, at their own expense, all labor, materials, equipment, supplies and other items necessary to complete the Work to be provided pursuant to this Agreement. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing Work for District.
10. **TRANSPORTATION.** Consultant hereby acknowledges and understands that it is their responsibility to arrange for transportation to provide all services necessary and/or required by this Agreement and is solely responsible for all associated costs. The District is in no way responsible for, nor does District assume any liability for, any injury or loss, which may result from Consultant's transportation for which the Consultant shall indemnify the District in accordance with the Hold Harmless and Indemnification provision herein.
11. **TAXES.** Consultant acknowledges and agrees that it is their sole responsibility to report as income their compensation received from the District and to make the requisite tax filings and payments to the appropriate federal, state and/or local taxation authorities. No part of Consultant's compensation shall be subject to withholding by the District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.
12. **CALIFORNIA STATE TAX WITHHOLDING FOR NONRESIDENTS OF CALIFORNIA.** It is mutually understood that if Consultant is a nonresident of California, which may include California nonresidents, corporations, limited liability companies, non-profits, and partnerships that do not have a permanent place of business in the State of California, the District is obligated to abide by California Franchise Tax Board (FTB) withholding requirements. The District is required to withhold from all payments or distributions of California source income made to a nonresident when payments or distributions are greater than One Thousand Five Hundred Dollars (\$1,500) for the calendar year unless the District receives authorization for a waiver or a reduced withholding rate from FTB. As of January 1, 2008, the standard withholding amount for all payments to nonresident California contractors is Seven Percent (7%). District will deduct the amount ordered by the State of California from the payment hereunder and will pay such amount directly to the Consultant's California State Income Tax Account, settlement of which must be made by Consultant directly with the State of California through Withholding Coordinator, Franchise Tax Board, P.O. Box 651, Sacramento, California, 95812-0651; telephone (916) 845-6262. Completion and submission of the appropriate form shall be the obligation of

the nonresident Consultant and Consultant shall defend, indemnify, and hold harmless the District against any loss, expense, or liability arising out of Consultant's acts or omissions with respect to this nonresident requirement. Consultant shall provide all necessary documentation and information to help District comply with all tax requirements related to California nonresidents.

13. **STANDARD OF CARE AND PROFESSIONAL CONDUCT.** Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subconsultants shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. 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 or Consultant's employees who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of Consultant's employees who fail or refuse to perform the services in a manner acceptable to District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the services or to work on the Project.

14. **AUDIT AND INSPECTION OF RECORDS.** At any time during the normal business hours and as often as District may deem necessary, Consultant shall make available to District for examination at District's place of business as specified herein, all data, records, investigation reports and all other materials respecting matters covered by this Agreement and Consultant will permit the District to audit, and to make audits of all invoices, materials, payrolls, records of personnel and other data related to all matters covered by this Agreement.

15. **TIME IS OF THE ESSENCE.** Time is of the essence with respect to all provisions of this Agreement.

16. **TERMINATION.**

A. **Grounds for Termination.** District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at thirty (30) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

B. **Effect of Termination.** If this Agreement is terminated as provided in this Article, Consultant shall be required to provide all finished or unfinished documents, data, programming source code, reports, or any other items prepared by Consultant in connection with the performance of services under this Agreement within fifteen (15) days of the request.

C. **Additional Services.** In the event this Agreement is terminated in whole or in part as provided herein, the District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

17. **HOLD HARMLESS AND INDEMNIFICATION.** To the fullest extent permitted by law, the Consultant and its subconsultants shall defend (with counsel of District's choosing), indemnify, and hold harmless the District, its Board of Trustees, officers, agents, employees, representatives, and volunteers (collectively "Indemnified Parties") from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, in law or equity, property damage, personal injury, damages or injuries/illnesses (including COVID-19) of any kind, including wrongful death, in any manner arising out of, pertaining to, or incident to losses including, but not limited to allegations that the Consultant's and/or its subconsultant's Services, software, documentation, product, output, presentation, materials or the like infringed any trademark, copyright or patent or misappropriated any trade secret of a third party, exposure of confidential information to unauthorized parties by Consultant's and/or its subconsultant's Services, software, or documentation, or Consultant's and/or its subconsultant's introduction of any unauthorized material (including but not limited to viruses, Trojans, rootkits, ransomware, blockchain, or other malware) to the District's computer network, including any cloud, storage, or extension thereof, and any alleged acts, errors or omissions, negligence, recklessness or willful misconduct of Consultant, its officials, officers, agents, employees, representatives, subconsultant, or volunteers, in connection with the performance of the Consultant's Services of this Agreement or obligations hereunder, including without limitation the payment of all

consequential damages, expert witness fees, attorney's fees, and other related costs and expenses. In the event any article sold and delivered hereunder is covered by any patent, copyright, or application thereof, Consultant and its subconsultants shall defend, indemnify, and hold harmless South Orange County Community College District, its Board of Trustees, officers, agents, employees, representatives, and volunteers from any and all losses, costs or expenses resulting from claims, suits or judgments rendered for violation of rights under such patents, copyright, or application. Additionally, Consultant shall defend, indemnify, and hold harmless the District, its Board, officers, agents, employees, representatives, and volunteers from any claims or losses arising out of the infringement or misappropriation of any individual's/entity's intellectual property. Consultant shall reimburse the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers for all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity provided herein. This hold harmless and indemnification includes, but is not limited to, compensatory damages, regulatory fines, penalties, and extra-contractual liability. In no event shall the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers be liable for any loss of Consultant's business, revenues or profits, or special, consequential, incidental, indirect or punitive damages of any nature, even if the District its Board of Trustees, officers, agents, employees, representatives, and/or volunteers have been advised in advance of the possibility of such damages.

- A. Consultant's and its subconsultants' obligation to indemnify the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers shall not be restricted to insurance proceeds, if any, received by the District, its Board of Trustees, officers, agents, employees, representatives, and/or volunteers.
- B. The Parties understand and agree that this shall be the sole indemnity, as defined by California Civil Code § 2772, governing this Agreement. Any other indemnity that may be attached to this Agreement as an Exhibit shall be void and unenforceable between the Parties.
- C. Neither termination of this Agreement nor completion of the acts to be performed under this Agreement shall release Consultant or its subconsultants from its obligations to indemnify as to any claims or causes of action asserted so long as the event(s) upon which such claim or cause of action is predicated shall have occurred prior to the effective date of termination or completion.

18. **INSURANCE.** The Consultant and its subconsultants shall maintain in full force and effect throughout the term of this Agreement the following policies of insurance with no less than the limits set forth herein. District may adjust, Consultant's required minimum coverage limits set forth herein at the commencement of a renewal term by providing Consultant and subconsultant (if applicable) written notice.

- A. A.M. Best Financial Rating. Policies of insurance required herein shall be issued by insurers with an A.M. Best financial rating of A:VII or better.
- B. Admitted Carrier(s). Policies of insurance shall be afforded by insurers who are admitted - licensed to transact business in the State of California.
- C. Workers' Compensation and Employer's Liability. In accordance with the laws of the State of California, Consultant shall maintain Workers' Compensation insurance and Employer's Liability coverage with not less than One Million Dollars (\$1,000,000) for Each Accident, One Million Dollars (\$1,000,000) for Disease - Each Employee, and One Million Dollars (\$1,000,000) for Disease - Policy Limit.
- D. Commercial General Liability. Insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate to cover losses including, but not limited to blanket contractual, broad form property damage, products & completed operations, personal injury, and wrongful death.
- E. Automobile Liability. Insurance with combined single limits of not less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate to cover losses involving "Any Auto".
- F. Technology Professional Liability aka Errors and Omissions. Consultant and its subConsultants shall each procure and maintain throughout the term of this Agreement, Technology Professional Liability insurance with limits of not less than Two Million Dollars (\$2,000,000) per occurrence or claim and Two Million Dollars (\$2,000,000) general aggregate to cover against liability claims/lawsuits related to the technology professional's Services as stated herein. If coverage is written on a claims made and reported form, such coverage shall contain an Extended Reporting Period (aka tail coverage) for a minimum of two (2) years following the termination date of this Agreement.
- G. Cyber Liability (1<sup>st</sup> and 3<sup>rd</sup> Party Coverage). Consultant and its subconsultants shall each procure and maintain

throughout the term of this Agreement, Cyber Liability insurance with limits not less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate. Such coverage shall protect against causes of loss including but not limited to invasion of privacy violations, breach of data, disruption of networks, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, introduction or intrusion of a virus, malware, notification, credit monitoring, breach response costs, regulatory fines and penalties, extortion and network security, and also infringement of intellectual property.

- H. Additional Insured Endorsement. Consultant and its subconsultants shall each issue District an endorsement naming District, its Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers as Additional Insureds to their respective Commercial General Liability and Automobile Liability insurance policies.
  - I. Primary and Non-Contributory Endorsement. Consultant and its subconsultants insurance coverage and limits shall be primary and any of the District's insurance coverage and limits shall be non-contributory.
  - J. Waiver of Subrogation Endorsements. Consultant and its subconsultants shall each issue District an endorsement waiving all rights of subrogation against the District, its Board of Trustees, officers, agents, employees, representatives, invitees, and volunteers to their respective Commercial General Liability, Automobile Liability, and Workers' Compensation policies.
  - K. No Cancellation or Material Modification. Consultant and its subconsultant's policies of insurance and accompanying endorsements required by this Agreement shall not be cancelled or materially modified, except upon thirty (30) days' advance written notice to District. Written notice of cancellation or material modification shall be from the insurer(s) issuing the policy(ies) of insurance to the District.
  - L. Certificate(s) of Insurance and Endorsement(s). Certificate(s) and Endorsement(s) evidencing the required coverages and limits set forth herein shall be provided to District upon Consultant's execution of this Agreement. No Services shall commence by Consultant or its subconsultants until the required certificate(s) of insurance and endorsement(s) have been furnished to the District.
15. **PUBLIC RETIREMENT SYSTEM RETIREES**. Consultant must disclose to District if Consultant has retired from the California State Teachers' Retirement System ("CalSTRS") or the California Public Employees' Retirement System ("CalPERS"). Pursuant to California Education Code Section 24214 and 24214.5, there are postretirement limitations on earnings if Consultant has retired from CalSTRS and hours worked limitations if Consultant has retired from CalPERS. If Consultant has retired from either CalSTRS or CalPERS, Consultant should be aware that the District is required to report all payments under this and any additional Agreements in any given year (July 1 – June 30).
16. **INDEPENDENT CONSULTANT**. Consultant, in the performance of this Agreement, shall be and act as an independent Consultant and not an employee of the District. Consultant and its subconsultants, understand and agree that they shall not be considered officers, agents, employees, or volunteers of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Consultant assumes the full responsibility of their actions and/or liabilities including those of their employees or agents as they relate to the Services to be provided under this Agreement. Consultant shall assume full responsibility for withholding and payment of all federal, state, local and applicable income taxes; workers' compensation; contributions, including but not limited to, unemployment insurance and social security with respect to Consultant and Consultant's employees. Consultant should be aware that the IRS regulations require District to report total income exceeding six hundred dollars (\$600) under this and any additional Agreements in any given year. The District will not withhold taxes, unemployment insurance or social security for Consultant or Consultant's employees or subconsultants. Consultant agrees to defend, indemnify and hold the District, its Board of Trustees, officers, agents, employees, representatives, and volunteers harmless from and against any and all liability arising from any failure or alleged failure of Consultant to withhold or pay any applicable tax, unemployment insurance or social security when due or any failure or alleged failure to comply with any applicable regulation applicable to Consultant's employees or subconsultants.
17. **USE OF SUBCONSULTANTS**. The obligations of the Consultant pursuant to this Agreement shall not be assigned by the Consultant without the express written approval of the District. Consultant must obtain District's prior written approval to use any subconsultants while performing any portion of this Agreement and such approval may be conditioned on approval of the subcontract between Consultant and subconsultant. Such approval must include approval of the proposed subconsultant and the terms of compensation. If written approval for Consultant's use of a subconsultant is provided by the District, Consultant warrants that said subconsultant shall have sufficient skill and

experience to perform the services assigned to them. Consultant further represents that its subconsultants have all licenses, permits, qualifications, and approvals of whatever nature that are legally required to perform the services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. District retains the right to obtain copies of subconsultant's insurance coverage at any time. Nothing in this Article shall be interpreted as creating a contractual relationship between District and any approved subconsultant. Notwithstanding District's approval of any subconsultant's contract, Consultant shall remain solely responsible for any harm, damage, or claim arising from any subconsultant's acts or omissions as set forth in the Hold Harmless and Indemnification provision herein.

18. **ASSIGNMENT.** This Agreement is not assignable by Consultant, either in whole or in part, nor shall the Consultant further contract for the performance of any of its obligations hereunder, without the prior written consent of District.
19. **EMPLOYMENT WITH PUBLIC AGENCY.** If Consultant is an employee of another public agency, Consultant agrees that they will not receive salary or remuneration, other than vacation pay, for the actual time in which services are actually being performed pursuant to this Agreement.
20. **REPRESENTATIONS AND WARRANTIES.** Consultant on its own behalf and on behalf of all its employees, makes the following certifications, representations, and warranties for the benefit of the District. In addition, Consultant acknowledges and agrees that the District, in deciding to engage Consultant pursuant to this Agreement, is relying upon the truth and validity of the following certifications, representations and warranties and their effectiveness throughout the term of this Agreement and the course of Consultant's engagement hereunder:

Consultant and its employees are qualified in all respects to provide to the District all of the services contemplated by this Agreement and, to the extent required by any applicable laws, Consultant and its employees have all licenses, permits, qualifications, and/or governmental approvals that are legally required to perform the Services as described herein. Such licenses, permits, qualifications, and/or governmental approvals shall be maintained throughout the term of this Agreement.

Consultant, in providing the services and in otherwise carrying out its obligations to the District under this Agreement, shall, at all times, comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, including workers' compensation and equal protection and non-discrimination laws. Consultant shall be liable for all violations of such laws and regulations in connection with the services as described herein.

21. **EQUAL OPPORTUNITY/NON-DISCRIMINATION.** Consultant shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, disability, medical condition, marital status, veteran status, or any other category protected by law.

Consultant shall ensure that all services and benefits rendered to the District, its representatives, consultants/contractors and volunteers are provided free of any form of harassment and without regard to race, color, religion, sex, age, disability, medical condition, marital status, national origin, veteran status, or any other category protected by law. Consultant shall comply with the Americans with Disabilities Act and the Rehabilitation Act of 1973, as amended.

22. **COMPLIANCE WITH APPLICABLE LAWS, POLICIES, PROCEDURES, RULES & REGULATIONS.** Consultant shall comply with District's policies, procedures, rules, regulations and/or guidelines that include but are not limited to a smoke, alcohol, and controlled substances free campus, conflict of interest, workplace violence, code of conduct, harassment and discrimination prevention and drug-free environment.

Consultant agrees to comply with all federal, state and local laws, rules, regulations, and ordinances that are now and may in the future become applicable to Consultant, Consultant's business, equipment and personnel engaged in Work covered by this Agreement or accruing out of the performance of such Work. Additionally, Consultant shall strictly comply with all health and safety guidelines consistent with Cal/OSHA and CDC.

**COVID-19 Related Responsibilities.** Consultant shall respond to all potential COVID-19 exposure events immediately. If a possible COVID-19 infection or potential exposure event occurs involving Consultant and any of its employees performing Work on District property pursuant to the terms of this Agreement, Consultant shall immediately notify the District. While the confidentiality of all medical conditions must be maintained in accordance with applicable law, the District reserves the right to inform any District staff, employees, students, and/or visitors that an unnamed individual has been diagnosed with COVID-19 if any of the District's staff, employees, students, or visitors might have been

exposed to the disease so such individual(s) may take measures to protect their own health.

Contractor shall ensure that its employees will at all times comply with the District's current [COVID-19 Contractor Protocols](#).

23. **CERTIFICATION REGARDING THE CALIFORNIA PENAL CODE SECTION 290.** By executing this Agreement, Consultant agrees to comply with the rules and regulations of the Sex Offender Registration Act, California Penal Code Section 290.95. Consultant certifies and understands that every person required to register under Section 290 shall disclose his or her status as a registrant, upon application or acceptance of a position, to that person, group, or organization. Furthermore, no person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under sixteen (16) years of age shall be an employer, employee, or independent Consultant, or act as a volunteer with any person, group, or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. A violation of this Article is a misdemeanor punishable by imprisonment in a county jail for not exceeding six (6) months, by a fine not exceeding One Thousand Dollars (\$1,000), or by both that imprisonment and fine, and a violation of this Article shall not constitute a continuing offense.
24. **BACKGROUND CHECK.** Consultant hereby certifies that Consultant has never been charged with a felony, including any "violent felony" as defined in California Civil Code section 667.5(c) or serious felony defined by California Civil Code section 1192.7 prior to, or on the date of, this Agreement. Consultant shall notify District in writing immediately if Consultant is charged with any felony during the term of this Agreement in which case District may terminate this Agreement immediately. Consultant further hereby authorizes the District or other organizations to conduct a comprehensive review of his/her background upon District's request. Consultant hereby consents to the background check to the fullest extent permitted by law. Consultant agrees to indemnify, defend and hold harmless the District from any claims, damages, harms, and costs, including legal and processing fees arising from the requirements of this Section, including any such issue arising from any felony Consultant has been charged with, or is charged with, during this Agreement. Failure to complete any required step to provide the background check and information required herein upon District request within thirty (30) days shall be grounds for termination of this Agreement.
25. **CERTIFICATION REGARDING DEBARMENT, SUSPENSION OR OTHER INELIGIBILITY (Applicable to all agreements funded in part or whole with federal funds).**
- A. By executing this contractual instrument, Consultant agrees to comply with applicable federal suspension and debarment regulations, including, but not limited to, regulations implementing Executive Order 12549 (29 C.F.R. Part 98) (see Appendix 15).
- B. By executing this contractual instrument, Consultant certifies to the best of its knowledge and belief that it and its principals:
1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
  2. Have not, within a three-year period preceding the execution of this contractual instrument, been convicted of, or had a civil judgment rendered against them, for: (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) or private transaction or contract; (b) Violation of Federal or State antitrust statutes; (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (d) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects Consultant's present responsibility;
  3. Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (Federal, State or Local), with commission of any of the offenses enumerated in b.2) above, of this certification;
  4. Have not, within a three-year period preceding the execution of this contractual instrument, had one or more public transaction (Federal, State or Local) terminated for cause or default;
  5. Shall not, except as otherwise provided under applicable federal regulations, knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded by any federal department or agency from participation in such transaction; and
  6. Include in all lower tier covered transactions, and all solicitations for covered transactions, provisions substantially similar to those set forth herein.
26. **PROFANITY PROHIBITED.** Profanity, including, but not limited to, racial, ethnic, or sexual slurs or comments, which could be considered harassment on any District property is prohibited.

27. **MANDATORY DRESS CODE.** Appropriate attire is mandatory. Therefore, clothing with inappropriate language/suggestions/gestures graphics, indecent exposure, tank tops, cut-offs, and shorts are not allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as stated in the above Article.
28. **TRADEMARK/LOGO USE.** Consultant must obtain written approval from District's Public and Government Affairs, Public Information Office ("PIO") to use the District's name and/or logos in any advertisements, promotions, press releases or other media. In the event permission is granted, PIO will furnish Consultant with camera-ready artwork for such use. District, at its sole discretion, may limit or otherwise place conditions on Consultant's use of District's name, and/or logos in which case such limitations shall be incorporated into this Agreement. Consultant shall not revise, change, or otherwise alter any material related to District's name and/or logo without written consent from District.
29. **ORIGINALITY OF SERVICES.** Consultant agrees that all material produced by the Consultant and delivered to District hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless the District, its Board of Trustees, officers, agents, employees, and volunteers from any costs, expenses and damages resulting from any breach of this representation.

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 rights, titles and interests 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 use of Consultant's name in conjunction with the sale, use, performance, and distribution of the matters, for any purpose and in any medium.

30. **RIGHTS TO DATA.** Consultant grants to the District the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this Agreement.
31. **PERSONAL INFORMATION.** During the course of this Agreement, should Consultant come into possession of any personal information that is considered sensitive, nonpublic personal data or contains personally identifiable information related to District's users, which include but are not limited to employees, students, and volunteers, Consultant shall immediately notify the District. Consultant shall not disclose this information to any third party under any circumstances.
32. **CONFIDENTIALITY.** Consultant shall hold in trust for the District, and shall not disclose to any person, any confidential information. Confidential information is information, which is related to the District's research, development, trade secrets and business affairs; but does not include information, which is generally known or easily ascertainable by nonparties through available public documentation.

Consultant shall advise the District of any and all materials used, or recommended for use by Consultant to achieve the project goals, that are subject to any copyright restrictions or requirements. In the event Consultant shall fail to so advise the District and as a result of the use of any programs or materials developed by Consultant under this Agreement the District should be found in violation of any copyright restrictions or requirements, or the District should be alleged to be in violation of any copyright restrictions or requirements, Consultant agrees to indemnify, defend and hold harmless, District against any action or claim brought by the copyright holder.

Notwithstanding the above requirements, to the extent any records or documents associated with the Consultant's services and/or the project are or become public records, they shall be subject to disclosure pursuant to the Public Records Act and applicable California law.

33. **NON-WAIVER.** 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.
34. **NOTICES.** All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if personally served, emailed, or if sent by registered mail addressed to the parties at their address indicated in this Agreement.

DISTRICT: South Orange County Community College District  
Priya Jerome, Executive Director, Procurement,



Central Services, and Risk Management  
28000 Marguerite Parkway  
Mission Viejo, CA 92692  
(949) 582-4850 / purchasing-dept@socccd.edu

CONSULTANT:

[[ Name (Primary Second Party) ]]  
[[ Contact Name (Primary Second Party Contact) ]], [[ Contact Title (Primary Second Party Contact) ]]  
[[ Street Line 1 (Primary Second Party) ]]  
[[ City/Town (Primary Second Party) ]], [[ State/Province (Primary Second Party) ]], [[ Postal Code  
(Primary Second Party) ]]  
[[ Contact Phone Number (Primary Second Party Contact) ]] / [[ Contact E-mail (Primary Second Party  
Contact) ]]

A Party may change their designated representative and/or address for the purposes of receiving notices and communication under this Agreement by notifying the other Party of the change in writing and in the manner described in this Article.

35. **SUPERSEDES.** This Agreement constitutes the entire agreement and understanding between the parties to this Agreement and supersedes all prior and contemporaneous negotiations and understandings between the parties whether oral or written, expressed or implied.
36. **GOVERNING LAW.** The terms and conditions of this Agreement shall be governed by the laws of the State of California with jurisdiction/venue in Orange, California.
37. **FORCE MAJEURE.** The Consultant and District are excused from performance during the time and to the extent that they are prevented from obtaining, performing any act or rendering any services required under this Agreement by a Force Majeure Event. If a Force Majeure Event caused the failure or delay beyond the Parties' control and which by the Parties' exercise of due diligence could not reasonably have been avoided, an extension of contract times in an amount equal to the time loss due to such delay shall be the Consultant's sole and exclusive remedy for such delay. A "Force Majeure Event" shall mean events or circumstances occurring by acts of God, such as tornadoes, lightning, earthquakes, hurricanes, floods, or other natural disasters; epidemics; pandemics; quarantine restrictions; fire; strikes; lock-out; commandeering of materials, products, plants or facilities by the government; terrorist attacks; wars; riots; civil disturbances; or governmental acts, including sanction, embargo, and import or export regulation, or order; when satisfactory evidence thereof is presented to the other party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the party not performing.
38. **SEVERABILITY.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.
39. **INTERPRETATION.** In interpreting this Agreement, it shall be deemed to have been prepared by the Parties jointly, and no ambiguity shall be resolved against District on the premise that it or its attorneys were responsible for drafting this Agreement or any provision hereof. The captions or heading set forth in this Agreement are for convenience only and in no way define, limit, or describe the scope or intent of any Articles or other provisions of this Agreement. Any reference in this Agreement to an Article, unless specified otherwise, shall be a reference to an Article of this Agreement.
40. **CONFLICT OF INTEREST.** Consultant hereby represents, warrants and covenants that (i) at the time of execution of this Agreement, Consultant has no interest and shall not acquire any interest in the future, whether direct or indirect, which would conflict in any manner or degree with the performance of services under this Agreement; (ii) Consultant has no business or financial interests which are in conflict with Consultant's obligations to the District under this Agreement; and (iii) Consultant shall not employ in the performance of services under this Agreement any person or entity having any such interests.
41. **ACCESSIBILITY OF INFORMATION AND COMMUNICATION TECHNOLOGY.** The Consultant hereby warrants that the goods or services to be provided to the District comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. S794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, Part 194. The Consultant agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services. Consultant further agrees to indemnify and hold harmless the District from any



claim arising out of its failure to comply with the aforesaid requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this order or Agreement.

Consultant is responsible for following all Federal and California accessibility laws set forth under Sec 508 of the Rehabilitation Act of 1973, passed in 2000 and updated in 2017 and California Government Code Section 7405. All materials and Information and Communication Technology (ICT) produced or provided by the Consultant, as part of this contract must meet the standards set forth under these laws. These requirements include, but are not limited to, closed captioning of all videos or portions of videos; all presentations; training materials; curriculum; computers; and all other ICT as defined under the law, must be created and delivered in a manner where they meet accessible requirements. All websites developed and maintained must be accessible, built to the most current and highest Web Content Accessibility Guidelines (WCAG), and be delivered with documentation allowing the District to certify it as accessible and in compliance with California Government Code Sections 7405 and 11135. Consultant is responsible for all claims and expenses borne by the District, which arise out of the work under this contract, found to be non-compliant with Federal and California Laws. These costs include but are not limited to legal costs, court costs, and costs for remediation of work produced.

- 42. **ENTIRE AGREEMENT AND AMENDMENT.** The Agreement documents consist of this Agreement, any exhibits attached to or referenced herein, and all amendments and/or modifications issued in writing, duly approved or ratified by District’s Board of Trustees, and executed by the Parties shall be interpreted to the benefit of the District. Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (a) provisions set forth in this Agreement, (b) provisions set forth in any referenced attachments or exhibits to this Agreement attached or incorporated herein by reference. However, the Parties understand and agree that the service specified in the Agreement and any provisions set forth in any referenced attachments or exhibits to this Agreement is intended to cooperate and be complementary; provided further, however, that in the event of a conflict between the Agreement and the provisions set forth in any referenced attachments or exhibits, the Agreement shall control, unless the provisions set forth in any referenced attachments or exhibits to this Agreement provides the District with greater benefits or more expansive services in which case the provisions set forth in any referenced attachments or exhibits to this Agreement shall compliment the terms of this Agreement.
- 43. **AUTHORITY TO EXECUTE.** The individual(s) executing this Agreement on behalf of the Consultant is/are duly and fully authorized to execute this Agreement on behalf of Consultant and to bind the Consultant to each and every term, condition, and covenant of this Agreement.
- 44. **APPROVAL BY DISTRICT’S BOARD OF TRUSTEES.** Pursuant to Education Code Section 81655, this Agreement is not valid and does not constitute an enforceable obligation against District unless and until District’s Board of Trustees has approved or ratified this Agreement as evidenced by a motion duly passed and adopted by the Board of Trustees.

**IN WITNESS WHEREOF**, this Agreement has been executed by and on behalf of the Parties, the day and year signed below.

**CONSULTANT**

**DISTRICT**

**[[ NAME (PRIMARY SECOND PARTY) ]]**

**South Orange County Community College District**

Signature:

Signature:

Print Name:

Print Name:

Title:

Title:

Date:

Date: