



NOTICE TO BIDDERS
ADDENDUM #1
RFQ 203-22 DSA Approved Construction Material Testing

Palomar Community College District

The following changes, additions, deletions, clarifications or corrections shall become part of the Bid & Contract Documents for the above listed project. This Addendum #1 forms a part of the contract document and modifies the original bidding documents. Acknowledge receipt of Addendum #1 in the space provided on the bid form. Failure to do so may subject bidder to disqualification.

ADDITIONAL DOCUMENTS

- Professional Services Agreement - Sample

REQUESTS FOR INFORMATION - QUESTIONS AND RESPONSES

(1) QUESTION: I would like to request a copy of the Districts Sample Professional Agreement for the above referenced RFP for review.

RESPONSE: See Sample Agreement attached.

(2) QUESTION: On page 7 of the RFQ, under B. General Experience, the description appears to be listed for DSA Inspectors and not a Testing/Inspection/Geotechnical Firm. Could you please clarify?

RESPONSE: Please substitute "Materials Testing and Inspection" anywhere that "IOR" or "DSA Inspectors" is stated.

(3) QUESTION: Are Attachments B – D to be submitted with the qualifications package?

RESPONSE: Yes

(4) QUESTION: Can you verify that the electrical testing reports are for a third party to report vs. a manufacturing vendor?

RESPONSE: The electrical test reports are to be prepared by the electrical contractor and will not be the responsibility of the Materials Testing and Inspection firm.

(5) QUESTION: The RFQ it is asking for \$3M aggregate professional liability. Our firm carries \$2M, which is the standard in our industry. Is this negotiable or is \$3M required?

RESPONSE: The District will accept \$2M.

- (6) QUESTION: After careful review of the subject line RFQ-203-22 for DSA Materials Testing Laboratory Services, Geocon would like to request clarification for the services being requested in the RFQ. The criteria is primarily written for IOR services rather than materials testing services, as seen in the following sections of the RFQ:

Section 1.B:

"B. General Experience (200): Experience of **the primary IOR/IOs** as related to new construction, modernization, renovation, civil and site improvement projects. Identify the key personnel that would be assigned to the District's program. Include a brief description of their qualifications, job functions and office location. Designate a Principal-in-Charge who is authorize to sign and enter into contract, Supervisor who will oversee the Project Inspectors, and **Project Inspectors Class I, II and III**, which will provide the (on site) day-to-day direction of the required work and become the District's primary contact person. Furnish brief resumes (not more than one page long) for each key personnel."

Section 1. E:

E. Pricing (100 points): Include an hourly rate or fee schedule for **the various IOs** and other standard services that DSA would normally expect **the IO** to provide for remodel projects and new construction."

Could the District please clarify if the services being requested are strictly for a DSA Testing Laboratory, or for an IO?

RESPONSE: The RFQ is strictly for DSA Materials Testing firms.

- (7) QUESTION: On section I: B. General Experience the experience ask of the primary IO/IOs as related to new construction. Would this be for the Inspection Firm or is this for IO services?

RESPONSE: Please see response to question #2 above.

- (8) QUESTION: Also on section I: E. Pricing it ask for an hourly rate or fee schedule for the various IO's. Would this be for the Inspection Firm or is this for IO services?

RESPONSE: Please see response to question #2 above and include pricing for standardized testing.

- (9) QUESTION: Would the District consider a deadline extension? Due to the RFQ Format in Section I, B. and Section I, E. awaiting clarification, this would give firms more time to appropriately respond to the RFQ after the addendum is released.

RESPONSE:

- (10) QUESTION: **What will the duration be of this contract with the District?**

RESPONSE: The contract as stated in the RFQ is for a one-year period renewable on an annual basis for up to 5 years total duration. In addition, any projects that are assigned to a firm will be for the duration of the individual project unless cause for removal from the project develop.

- (11) QUESTION: **Will the District allow firms to include annual escalators in their SOF?**

RESPONSE: Yes.

(12) QUESTION: **Is the District seeking to procure geotechnical construction support and geotechnical subsurface investigation/design services as a part of this RFQ?**

RESPONSE: Yes, part of the potential project scope of work would be both the initial geotechnical investigation and preparation of the Geotech report as well as associated soil work during construction including, but not limited to soil compaction testing, approval of bottom of foundation excavation, etc.

(13) QUESTION: On Page 3, in Section II Background, the District notes that it is planning to complete three projects, including a new Athletics project, general classroom and student support service building at the Fallbrook campus, and a renovation of the existing LL Building at the San Marcos campus into a new student retention center. **Can the District provide a copy of the geotechnical design reports for these projects?**

RESPONSE: No, providing of the geotechnical reports for these projects is not required for the firms to complete and submit on this RFQ. Shortlisted firms will receive copies in order to provide a cost proposal for each project for the Owner to determine project award.

(14) QUESTION: On page 5, in Section VIII Type of Services, subsection Services, the RFQ states: *The Testing Laboratory may also be selected to perform and issue the Geotechnical report for a project as well as soil testing and compaction.* **Will the subsequent task orders that arise out of this RFQ require the material testing firm to also serve as Geotechnical Engineer of Record on the project and be responsible for submitting the DSA Form 293 at the completion of the project?**

RESPONSE: Yes, subsequent task orders that arise out of this RFQ may require the material testing firm to also serve as Geotechnical Engineer of Record on the project and be responsible for submitting the DSA Form 293 at the completion of the project.

(15) QUESTION: On page 5, in Section VIII Type of Services, subsection Miscellaneous Test Reports, the RFQ states: *The firm selected to provide the DSA testing and/or inspection requirements may also provide the following services using firms qualified to perform this type of work as stated in the construction documents. 1) HVAC Air Balancing Reports, 2) HVAC Commissioning Report, 3) Electrical Testing Reports and 4) geotechnical Report.* Items 1-3 are not generally procured as a part of the Special Inspection Laboratory of Record scopes and were also included in the District's RFQ 202-22 for IOR services. **Can the District please confirm whether or not this is a copy and paste error and respondents to RFQ 203-22 need only include information about the geotechnical reports?**

RESPONSE: The HVAC Balancing and Commissioning and Electrical testing reports would be "one off" reports that would be requested by the District on a case by case basis and are not anticipated to be required. Preparation of geotechnical reports is a standard request for materials testing and inspection firms to prepare.

(16) QUESTION: On page 6, in Section VIII Type of Services, subsection Miscellaneous Test Reports, the RFQ states: *...(The listed items 1-4) should be listed as a separate line item in your submittal...and a determination of who will supply these services will be determined in the future.* **Can the District provide more information on what this sentence means; does the District want 5 project examples for material testing and 5 additional project examples for each of the 1-4 listed items, and individual references for each of the 1-4 listed items, for instance? Further, if a firm provided multiple services on one**

project (material testing and geotechnical engineering), can respondents provide five total project examples where we provided both sets of test reports?

RESPONSE: Firms do not need to provide cost information on the miscellaneous test reports in this section only a statement of the willingness of the firm to undertake these reports either in house or by using a consultant should the District request. Geotechnical reports do need to be listed as performed by the Materials testing an Inspection firms with a list of 5 projects where this work has been performed.

- (17) QUESTION: On page 6, in Section VIII Type of Services, subsection Miscellaneous Test Reports, the RFQ states: ...(For listed items 1-4) *a determination of who will supply these services will be determined in the future.* **Can the District provide more information on what this sentence means; is the District considering issuing a separate RFQ for On-Call Geotechnical Services at a later date, for instance?**

RESPONSE: Geotechnical services will be the responsibility of the Materials Testing and Inspection from selected for each individual project. For items 1-3 in the Miscellaneous Test Reports section, see answer to RFI #15 above.

- (18) QUESTION: On page 7, in Section I: Request for Qualifications Format, subsection Scoring, item C. Project Experience states: *List of five construction contracts Consultant/Firm have completed in the past three years in California.* **Can we provide projects currently under construction as well?**

RESPONSE: No, firms shall provide information on projects completed in the last 3 years

- (19) QUESTION: Balancing Reports, HVAC Commissioning Reports, and Electrical Testing Reports. These services are not part of the DSA Materials Testing Laboratory Accreditation certification. We want to confirm that this inclusion within the Materials Testing RFQ was intentional and not included in error.

RESPONSE: Please see answer to RFI #15 above.

- (20) QUESTION: On page 7, Item B, it states "Experience of the primary IOR/IORs" and we wanted to confirm that this was in error since the RFQ is for Construction Materials Testing Services and not Inspector of Record services.

RESPONSE: Please see answer to RFI #6 above.

- (21) QUESTION: On page 7, Item B, it states that we are required to designate a Supervisor who will oversee the Project Inspectors and Project Inspectors Class I, II, and II. We wanted to confirm that this was in error since the RFQ is for Construction Materials Testing Services and not Inspector of Record Services.

RESPONSE: Please see answer to RFI #6 above.

- (22) QUESTION: On Page 9, Attachment A, the insurance requirements refer to "The Architect." Will the College revise this to indicate "The Testing Laboratory"?

RESPONSE: Insurance requirements shall apply to DSA Materials Testing and Inspection firms and not Architects. In terms of insurance limits, please see answer to RFI #5 above.

- (23) QUESTION: Given the Presidents Day Holidays and anticipated RFQ clarifications will the RFQ be extended?

RESPONSE: No, the submittal due date will not be extended.

- (24) QUESTION: Reviewing your RFQ, there are sections within it which describe IOR services (Page 7 "General Experience", "Project Experience", and Page 8 "Pricing"). Just checking that we should disregard these references to IOR scopes/services or will you be reissuing a revised RFQ or Addendum addressing this?

RESPONSE: Please see answer to RFI #6 above.

END OF ADDENDUM #1

Date Issued: Feb 15, 2022



Ambur Borth, Assistant Superintendent
Vice President Finance & Administrative Services
Palomar Community College District

**MASTER AGREEMENT FOR
MATERIALS TESTING LABORATORY SERVICES
BETWEEN
PALOMAR COMMUNITY COLLEGE DISTRICT
AND
DSA Material Testing Laboratory Firm**

1. Parties and Date.

This Master Agreement ("Agreement") is made and entered into this ---- day of -----, 2022, by and between **PALOMAR COMMUNITY COLLEGE DISTRICT** ("District"), and **DSA Material Testing Laboratory Firm**, ("CONSULTANT"), (collectively referred to as the "Parties" and each individually as "Party"). All projects assigned to CONSULTANT shall be identified and made a part of this Master Agreement through a written proposal and approved by the DISTRICT. Proposal shall include the project name, location, scope of work, project number, and basis of compensation

2. Recitals.

2.1 The District published a Request for Qualifications (RFQ) 203-22 seeking qualified testing laboratories approved by the California Division of the State Architect (DSA) to provide all of the required testing services for various projects to be funded through sources such as, but not limited to, the District's Proposition M, grant funds, State Scheduled Maintenance (SSM) and Federal Funds.

2.2 The District received a Statement of Qualifications (SOQ) from CONSULTANT and based on their qualifications and expertise the District desires to accept the SOQ and retain the services of CONSULTANT, for assignment of various construction projects funded through a variety of funding.

2.3 CONSULTANT shall perform the services, and coordinate the services by others, as described in the Scope of Services set forth in Exhibit A, which is made a part hereof. In performing this work, CONSULTANT shall use that degree of professional skill and expertise, which is, expected of competent and skilled certified DSA testing laboratories practicing in this specialty field, and working on projects similar to the subject Project in the State of California as of the date of this agreement.

Based upon the foregoing recitals, which are incorporated as terms of this Agreement District and CONSULTANT agree as follows:

3. Terms.

3.1 Scope of Services, Qualifications and Term.

(a) General Scope of Services. CONSULTANT shall provide to the District testing services in accordance with Title 21 of the California Code of Regulations. CONSULTANT shall act under the direction of the District's Architect and/or the District's Representative for the project and shall be responsible to the District's Governing Board. All services rendered by CONSULTANT shall be in a manner satisfactory to the District, Architect, Construction Manager and the Division of the State Architect.

CONSULTANT shall perform the services and coordinate the services by others, as described in Proposal, which once approved will be made a part hereof. In performing this work, CONSULTANT shall use that degree of professional skill and expertise, which is, expected of competent and skilled certified DSA testing laboratories practicing in this specialty field and working on projects similar to the subject Project in the State of California as of the date of this agreement. DISTRICT shall hold CONSULTANT to a standard of care for these services within the aforesaid degree of competence and skill and if CONSULTANT fails to perform up to these standards, DISTRICT may terminate this agreement and hire another firm to replace CONSULTANT on the Project.

3.1 Term.

(b) Term. The term of this Agreement shall commence on the date first written above and shall continue until Owner's acceptance of all work and final payment to CONSULTANT on assigned project(s). The Parties may mutually agree to extend this term by written amendment. All indemnification provisions contained in the Agreement shall survive beyond expiration of this Agreement.

3.2 Responsibilities of CONSULTANT.

(a) Control and Payment of CONSULTANTS and its Subordinates. District retains CONSULTANT on an independent contractor basis and CONSULTANT is not an employee of District. Any additional personnel performing the Services under this Agreement on behalf of CONSULTANT shall at all times be under CONSULTANT's exclusive direction and control. CONSULTANT shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law including, but not limited to, the payment of prevailing wage, as applicable, and in accordance with Labor Code sections 1720 et seq. and 1770 et seq. CONSULTANT shall obtain a copy of the prevailing rates of per diem wages applicable to the work to be performed under this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. CONSULTANT shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

The District shall use funds derived from the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 for these Project(s), and it is required to enforce the District's Labor Compliance Program ("LCP"). The CONSULTANT shall abide by the District's LCP.

(b) Conformance to Applicable Requirements. All work prepared by CONSULTANT is subject to the approval of District and any and all applicable regulatory State agencies, and shall be the property of District.

(c) Reports. CONSULTANT shall provide copies of all reports required to be submitted to applicable regulatory State agencies to District, whether or not such reports must be submitted to the District.

(d) Work Authorization. CONSULTANT shall obtain from District a work authorization for the assigned Project(s). Such work authorization shall reiterate CONSULTANT's duties outlined herein.

(e) Maintenance of Construction Records. CONSULTANT shall maintain complete and accurate testing and inspection records with respect to all records related to the Project. These records shall be maintained by CONSULTANT and made available at all reasonable times during any period which services are provided for the Project(s) and for four (4) years from the date of Notice of Completion for the Project as contracted for inspection by the District.

(f) Coordination of Services. CONSULTANT agrees to work closely with District staff in the performance of services and shall be available to District's staff, Consultants and other staff at all reasonable times.

(g) Standard of Care. CONSULTANT shall perform all services under this Master 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 subcontractors shall have sufficient skill and experience to perform the services assigned to them. CONSULTANT further represents that it,

its employees and subcontractors or sub-CONSULTANTS 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. Any of 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.

(h) Laws and Regulations. CONSULTANT shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all California Code of Regulations Title 24 and Cal/OSHA requirements, and shall give all notices required by law. CONSULTANT shall be liable for all violations of such laws and regulations in connection with Services.

(i) Insurance.

(i) Time for Compliance. CONSULTANT shall not commence services under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this Section.

(ii) Minimum Requirements and Limits. CONSULTANT shall, at its expense, procure and maintain for the duration of this Master Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the CONSULTANT, its agents, representatives, employees or subcontractors. CONSULTANT shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

(1) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*; (2) *Automobile Liability*: (any auto); (3) *Workers' Compensation and Employers' Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and (4) *Professional Liability*: Coverage (Errors and Omission) which is appropriate to the CONSULTANT's profession, or that of its CONSULTANTS or subcontractors.

(2) Minimum Limits of Insurance. CONSULTANT shall maintain limits no less than: (1) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; (3) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease; and (4) *Professional Liability*: Not less than \$1,000,000 per claim/ \$2,000,000 aggregate.

(3) Insurance Endorsements. The insurance policies shall contain the following provisions, or CONSULTANT shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

a. General Liability. The general liability policy shall be endorsed to state that: (1) the District shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the CONSULTANT, including materials, parts or equipment furnished in connection with such work; and (2) the insurance coverage shall be primary insurance as

respects the District, or if excess, shall stand in an unbroken chain of coverage excess of the CONSULTANT's scheduled underlying coverage. Any insurance or self-insurance maintained by the District shall be excess of the CONSULTANT's insurance and shall not be called upon to contribute with it in any way.

b. Automobile Liability. The automobile liability policy shall be endorsed to state that: (1) the District be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by CONSULTANT or for which the CONSULTANT is responsible; and (2) the insurance coverage shall be primary insurance as respects the District, or if excess, shall stand in an unbroken chain of coverage excess of the CONSULTANT's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the CONSULTANT's insurance and shall not be called upon to contribute with it in any way.

c. Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the CONSULTANT.

(4) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to District.

(iii) Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers.

(iv) Acceptability of Insurers. With the exception of Workers' Compensation Insurance, all insurance required hereunder is to be placed with insurers with a current A.M. Best's rating no less than A-:VII, which are licensed to do business in California, and which maintain an agent for process within the state. Workers' Compensation insurance required under this Agreement must be offered by an insurer meeting the above standards with the exception that the A.M. Best's rating condition is waived at the discretion of the District.

(v) Verification of Coverage. CONSULTANT shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to District.

(j) Safety. CONSULTANT shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the CONSULTANT shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees and subcontractors appropriate to the nature of the Services and the conditions under which the Services are to be performed. Safety precautions as applicable shall include, but shall not be limited to: (1) adequate life protection and life saving equipment and procedures; (2) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (3) adequate facilities for the proper inspection and maintenance of all safety measures.

(k) Project Staffing. CONSULTANT shall provide adequate staff and resources to facilitate all contractor's activity. Should CONSULTANT fail to adequately staff a project, the District may, at its sole discretion, retain third party inspection services and back charge CONSULTANT for all third party fees.

3.3 Fees and Payments.

(a) Compensation. CONSULTANT shall receive compensation, including reimbursements, for all services rendered under this Agreement at the rates set forth in the approved proposal for each project, which shall become a part of this Master Agreement. Extra Work may be authorized, as described below, and if authorized, will be compensated at the rates and manner set forth in this Agreement.

(b) Reimbursement of Expenses. CONSULTANT shall not be reimbursed for any expenses unless authorized in writing by District.

(c) Payment of Compensation. CONSULTANT shall submit to District an itemized statement which indicates work completed and hours of services rendered by CONSULTANT. District shall pay CONSULTANT within a reasonable time and in accordance with this Agreement.

(d) Extra Work. At any time during the term of this Agreement, District may request that CONSULTANT perform Extra Work. As used herein, "Extra Work" means any Services which are determined by District to be necessary, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. CONSULTANT shall not perform, nor be compensated for, Extra Work without written supplemental work authorization from District.

3.4 **Maintenance of Accounting Records.** CONSULTANT shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. CONSULTANT shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. CONSULTANT shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.

3.5 General Provisions.

(a) Suspension of Services. The District may, in its sole discretion, suspend all or any part of services provided hereunder without cost; provided, however, that if the District shall suspend Services for a period of ninety (90) consecutive days or more and in addition such suspension is not caused by CONSULTANT or the acts or omissions of CONSULTANT, upon recession of such suspension, the compensation will be subject to adjustment to provide for actual costs and expenses incurred by CONSULTANT as a direct result of the suspension and resumption of Services under this Agreement. CONSULTANT may not suspend its service without District's express written consent.

(b) Termination of Agreement.

(i) 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 least seven (7) 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.

(ii) Loss of Construction Inspector Certification. This Agreement shall automatically terminate and payment shall cease should the CONSULTANT fail to provide a properly certified inspector for the project for which CONSULTANT is providing services to the District.

(iii) Effect of Termination. If this Agreement is terminated as provided in this Section, District may require CONSULTANT 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. CONSULTANT shall be required to provide such documents and other information within fifteen (15) days of the request.

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

(c) Delivery of Notices. All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

Name of DSA Material Testing Laboratory Firm

Attn

Address

Address

Phone

Email Address

PALOMAR COMMUNITY COLLEGE DISTRICT

Attn: Contract Services

1140 West Mission Road

San Marcos CA 92069

(760) 744-1150 ext. 2129

contracts@palomar.edu

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

(d) Mediation. Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the Parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the Parties.

(e) Ownership of Materials and Confidentiality.

(i) All materials and data, including but not limited to, data on magnetic media and any materials and data required to be made or kept pursuant to federal, state or local laws, rules or regulations, prepared or collected by CONSULTANT pursuant to this Agreement, shall be the sole property of the District, except that CONSULTANT shall have the right to retain copies of all such documents and data for its records. District shall not be limited in any way in its use of such materials and data at any time, provided that any such use not within the purposes intended by this Agreement shall be at District's sole risk and provided that CONSULTANT shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement.

(ii) All such materials and data shall be provided to the District, or such other agency or entity as directed by District or required by law, rule or regulation, immediately upon completion of the term of this Agreement as directed by District. Should District wish to obtain possession of any such materials or data during the term of this Agreement, it shall make its request in writing. Such information shall be provided to the District within forty-eight (48) hours of its request.

(f) Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

(g) Indemnification. CONSULTANT shall defend, indemnify and hold the District, its officials, officers, employees, agents and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of CONSULTANT, its officials, officers, employees, agents, volunteers, CONSULTANTS and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all attorneys fees and other related costs and expenses. CONSULTANT shall reimburse District and its directors, officials, officers, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

(h) Entire Agreement. This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements

(i) Governing Law. This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a state or federal court located in the County of San Diego, State of California.

(j) Time of Essence. Time is of the essence for each and every provision of this Agreement.

(k) District's Right to Employ Other CONSULTANTS. District reserves right to employ other CONSULTANTS in connection with this Project. However, CONSULTANT shall be the exclusive CONSULTANT for purposes of the Services as noted within this Agreement, unless terminated as provided herein.

(l) Successors and Assigns. This Agreement shall be binding on the successors and assigns of the Parties, and shall not be assigned by CONSULTANT without the prior written consent of District.

(m) Amendments. This Agreement may not be amended except by a writing signed by the District and CONSULTANT.

(n) Severability. If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.

(o) Interpretation. In interpreting this Agreement, it shall be deemed that it was prepared jointly by the Parties with full access to legal counsel of their own. No ambiguity shall be resolved against any party on the premise that it or its attorneys were solely responsible for drafting this Agreement or any provision thereof.

(p) Conflict of Interest. For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

(q) Equal Opportunity Employment. CONSULTANT represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. CONSULTANT shall also comply with all relevant provisions of District's Minority Business Enterprise program, if any or other related programs or guidelines currently in effect or hereinafter enacted. CONSULTANT must make a good faith effort to contact and utilize DVBE sub-contractors or sub-consultants and suppliers in securing bids for performance of the Agreement and shall be required to certify its good faith efforts towards retaining DVBE subcontractors or sub-consultants and suppliers and identify DVBE firms utilized in performance of the Agreement.

(r) Taxpayer I.D. The CONSULTANT shall deliver the CONSULTANT's Federal IRS Taxpayer I.D. number to the District prior to any payments being made by the Owners under this Agreement.

(s) Drug-Free Facilities. All District facilities are drug -free facilities. Any drug use is prohibited at all times on all areas of District facilities.

(t) Exhibits and Recitals. All Exhibits and Recitals contained herein are hereby incorporated into this Agreement by this reference.

(u) Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

DATED: _____

PALOMAR COMMUNITY COLLEGE
DISTRICT

Ambur Borth , Asst. Supt./Vice President
Finance & Administrative Services

DATED: _____

DSA FIRM LEGAL NAME

Name/Title of Authorized signer

Federal Tax I.D. number

GOVERNING BOARD APPROVAL: _____

EXHIBIT "A"
SCOPE OF SERVICES

To Be Provided By CONSULTANT Based On Proposal for Assigned Project. District Must Review and Approve Scope of Services. Approved Scope of Services will be made part of the master agreement.

SAMPLE

SAMPLE


URGENT - Addendum 1 - RFQ 203-22

Final Audit Report

2022-02-15

Created:	2022-02-15
By:	Debbi Claypool (dclaypool@palomar.edu)
Status:	Signed
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"URGENT - Addendum 1 - RFQ 203-22" History

-  Document created by Debbi Claypool (dclaypool@palomar.edu)
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