

REQUEST FOR QUALIFICATIONS/PROPOSALS

FOR



RFQ/P Deadline for Submittal:
3:00 P.M., THURSDAY, FEBRUARY 2, 2023

Submit Electronically to:

Allen Young, Contracts Administrator
Office of Contract Services
ayoung@palomar.edu

and copy

Dennis Astl
Manager, Construction Facilities Planning
Facilities
dastl@palomar.edu

Palomar Community College District
1140 West Mission Road
San Marcos, CA 92069

LATE QUALIFICATIONS WILL NOT BE ACCEPTED

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**NOTICE TO ENVIRONMENTAL CONSULTANTS
REQUEST FOR QUALIFICATIONS/PROPOSALS
RFQ/P #200-23
DISTRICT ENVIRONMENTAL CONSULTING SERVICES
PALOMAR COMMUNITY COLLEGE DISTRICT**

NOTICE IS HEREBY GIVEN That the Palomar Community College District of San Diego County, California, acting by and through its Governing Board, will receive up to 3:00 p.m. on the **2nd day of February, 2023**. RFQ/P responses from qualified licensed environmental consulting firms, partnerships, individuals, and corporations to provide comprehensive professional services to assure the District complies with the requirements of the California Environmental Quality Act (CEQA) on a number of upcoming projects.

Responses shall be received electronically at ayoung@palomar.edu and a copy to dastl@palomar.edu on the date and at the time stated above.

Each submittal shall conform and be responsive to the Request for Qualifications/Proposal (RFQ/P), a copy of which is on file and may be obtained by calling the District's Contract Services at (760) 744-1150, ext. 2697, or at the following website: <http://www2.palomar.edu/pages/businessservices/bids-rfqs-and-rfps/>

Labor Compliance, CA Department of Industrial Relations: Projects funded by Prop M/Bond Series C are public work and subject to prevailing wage requirements as set forth in Labor Code §1720 *et seq.* Pursuant to Labor Code §1771.4(a)(4), prevailing wage rate monitoring and enforcement shall be by the California Department of Industrial Relations ("DIR").

All applicants shall be screened and evaluated by a District committee and those applicants selected for the short list may be invited to attend an interview, at the applicant's own expense, on a date and time to be scheduled.

The District reserves the right to reject any or all proposals and to waive any irregularities or informalities in the RFQ/P or RFQ/P process. The District is an equal opportunity employer and complies with all applicable State and Federal laws and regulations applicable to a public entity employer, including FEPC, EEOC, ADA, and all affirmative action laws and guidelines currently applicable to a California Community College District. District is an equal opportunity employer.

Judy Patacsil
Secretary of the Governing Board

Palomar Community College District
San Diego County, California

Publication: The San Diego Union Tribune
Publication Date: January 4, 2023 & January 11, 2023

SECTION I: INFORMATION FOR FIRMS**1. BACKGROUND**

The Palomar Community College District (hereinafter District) is a public two-year community college. The District's main campus is located in San Marcos, California, approximately 30 miles north of San Diego. In addition to our main campus in San Marcos, we operate educational centers in Escondido, Rancho Bernardo, and Fallbrook.

The District completed a comprehensive Educational and Facilities Master Plan in 2002. (The Master Plan 2022 can be viewed on our website at <https://www.palomar.edu/irp/master-plan-2022-update-2018/>). As part of this planning process a number of facility needs were identified for the District. Through the process, the District identified the following needs: construction of new instructional and support buildings, modernization of existing buildings, construction of new athletics facilities, infrastructure upgrades and the development of two (2) educational centers.

Based on this information and the funding options available, the Governing Board decided to request approval of the local electorate of a \$694 million bond issue. Approval was received from the electorate on November 7, 2006.

2. INTRODUCTION

The District is seeking a response to this request for qualifications/proposals (RFQ/P) from California licensed and qualified Environmental Firms (hereinafter Firms) to provide the services necessary to obtain environmental clearance and entitlement to construct all of the remaining projects that are funded by Prop M as well as miscellaneous smaller projects funded through alternative funding sources. In addition, the District is in process of establishing a new Educational and Facilities Vision Plan in 2022-23. These plans will establish the basis for a future Local Bond to fund the capital improvements throughout the District and support the Educational Goals of the District over the next 15-20 years.

It is expected that during the development of the new Facilities Vision Plan, that each campus Environmental Impact Report will need to be updated, as required,

It is the intention of the District in going forward with this RFQ/P and selection process, to retain the services of the best qualified Firm in the area of its requirements, doing so for the most competitive fees and costs offered in the proposal.

3. EQUAL OPPORTUNITY EMPLOYER

The District is an equal opportunity employer and complies with all applicable State and Federal laws and regulations applicable to a public entity employer, including FEPC, EEOC, ADA, and all affirmative action laws and guidelines currently applicable to a California Community College District.

4. NON-COLLUSION

By submittal and signing the response, the firm is certifying that the response document is genuine and not a sham or collusive, and not made in the interest of any person not named and that the firm has not induced or solicited others to submit a sham offer, or to refrain from responding.

5. REJECTION AND WAIVERS OF RESPONSES

This Request for Qualification does not commit the District to award a contract or to pay any costs incurred in the preparation of a response to this request. The District reserves the right to accept or reject any or all responses received; to negotiate with qualified firm(s) or cancel the request; and, to waive any minor irregularities and informalities in the response or RFQ/P process.

6. PUBLIC RECORDS ACT

Responses to this RFQ/P will become the exclusive property of the District. At that time firm(s) hired and the decision is made public, all documents shall be considered public records. Exceptions to this policy will be those elements in each response that are defined by your firm as business or trade secrets and marked

“proprietary” “trade secret” or “Confidential”. The District shall not be held responsible for the disclosure of any business or trade secrets that are not clearly identified.

7. TYPE OF SERVICES REQUESTED

Preparation of all documentation necessary to initiate, process, review and ultimately obtain certification of Project and Campus Environmental Impact Reports (or relevant project specific environmental documents) that will environmentally clear approval and implementation of the campus’ Facility Vision Plan in compliance with the California Environmental Quality Act (CEQA). Such documentation could include an initial study, notices, mailing, technical reports, exhibits, the Draft and Final EIR, findings, Negative Declarations, approval documents and other documentation, and studies as required in completing the CEQA process.

District projects likely to require these services include, but are not limited to:

- a) San Marcos Athletics & Kinesiology Facilities
- b) New Permanent Fallbrook Instruction and Student Services Building
- c) New San Marcos Student Retention Center (Renovation of Existing LL Building)
- d) Finalization of the Fallbrook environmental endowment process
- e) Completing CEQA process for Fallbrook property
- f) Update as required each campus EIR based upon new District Facilities Vision Plan

Services will likely include, among other activities, the following:

- a) Conduct appropriate scoping activities to identify issues and define the proposed project and alternatives for analysis; meet on an ongoing basis as appropriate with community and affect agency representatives, college administrators, master planners and associated Firms already under contract at the college; prepare, maintain and implement a CEQA processing schedule to assure efficient and timely preparation and processing of the EIR.
- b) Prepare Mitigated Negative Declaration documents;
- c) Prepare and distribute the initial study and notice of preparation;
- d) Prepare Administrative Draft environmental documents;
- e) Prepare and circulate draft environmental documents;
- f) Conduct public hearings and meetings, as required;
- g) Prepare administrative environmental impact report documents;
- h) Present draft and final report to the Board of Trustees
- i) Prepare the final EIR with responses to comments, findings of fact and statement of overriding considerations
- j) Construction phase environmental and/or monitoring services, including but not limited to architectural/historical/cultural, paleontology, biology, archeology, and any other services required by District EIR requirements.

4. RFQ/P TIMELINE

The District anticipates the following schedule for selecting Firms:

ACTION	DUE DATE
Advertise Request for Qualifications/Proposals	January 4, 2023 & January 11, 2023
Last Day to Submit Request for Clarification by e-mail to Allen Young at ayoung@palomar.edu	January 24, 2023 by 4:00 PM
District to post responses to Request for Clarification On website: http://www2.palomar.edu/pages/businessservices/bids-rfqs-and-rfps/	January 30, 2023

Deadline for receipt of RFQ/P submittals	February 2, 2023 by 3:00 PM
Notification of selection status	*Week of February 6
Selection Committee Interviews	*Week of February 13th
Notice of Recommendation to Governing Board for Award	*March 1, 2023

*Dates are subject to change.

5. TERM OF CONTRACT

The term of the contract is on a year-to-year basis, for a total period of up to five (5) calendar years.

6. PUBLICATION OF RFQ/P

In accordance with California Education Code Section 81641, the District has published a Notice Calling for Qualifications in The San Diego Union Tribune. A copy of the publication is shown on page 3.

7. DEFINITION OF TERMS

District or Palomar: The Governing Board of Palomar Community College District or its duly authorized agents.

Firms: A person, company, firm, or corporation qualified to and who does submit a proposal.

SECTION II: INSTRUCTIONS & INFORMATION FOR QUALIFICATION/PROPOSAL SUBMITTALS

All materials submitted in response to this RFQ/P shall be formatted for 8-1/2"x11" size pages, preferably in portrait orientation. All submitted materials must be submitted electronically via email and a mailed flash/thumb drive – no printed materials are required.

Any additional information that the Respondent wants to submit, which is not listed in Paragraph A-F below, must be set as a separate PDF.

Each Respondent shall submit one (1) original electronic copy of your respective RFQ/P response to ayoung@palomar.edu and copy dastl@palomar.edu. Please **mail** (1) complete electronic copy on a flash/thumb drive in PDF format to The Office of Contract Services, Attn: Allen Young, Room A-128; Administration Building located at 1140 W. Mission Road, San Marcos, California 92069-1487 and labeled: *RFQ/P #200-23: ENVIRONMENTAL CONSULTING SERVICES* (Postmarked by February 2, 2023). The District will not accept any responses after the deadline date & time. Also no oral, telegraphic, facsimile or telephone statements will be considered. The District **does not** require firms to submit a printed hard copy of the proposal.

The District may reject as “non-responsive” any RFQ/P which is considered by the District at their discretion non-responsive to the material requirements of the RFQ/P.

Each response must include the information as described in Paragraphs A-F below:

A. Letter of Introduction (0 points):

- 1) Letter of Introduction shall include the name, email address, fax number and phone number of the contact person in response to this RFQ/P.
- 2) Letter shall be signed by an authorized officer of the organization.
- 3) Letter of Introduction cannot exceed one (1) page.
- 4) If submitting as a team, note which group is the prime Firm or lead joint venture partner (if applicable).
- 5) Note individual who will be responsible for leading the effort and be the Main Point of Contact for the District.

B. Statement of Qualifications – 10 pages max. (250 points):

Provide a statement of Firm's qualifications [not to exceed ten (10) pages – maximum of 5 pages of the 10 for resumes]. Using as a minimum the following criteria, the individual or firm should state why it believes it is best-qualified to provide the services requested in the RFQ/P.

- 1) Type of organization or company structure.
- 2) Certification that the environmental consultancy firm is legally permitted or licensed to conduct business in the State of California for the services offered.
- 3) The number of years Firm has been in business.
- 4) Location of principal office that will be responsible for the implementation of this contract.
- 5) Qualifications of Firm.
- 6) List any potential subconsultants and their relevant experience that the firm would use in completion of its work for the District– for example traffic studies, cultural monitors, acoustics, etc.
- 7) Strength of staff: Include resumes of key personnel and tenure.

C. Experience – 5 pages max. (150 points):

- 1) Demonstration of your firm's ability to accomplish the scope of services listed below in a comprehensive, quick and thorough manner in order to meet the client's goal of moving projects into construction within the earliest possible timeframe, in compliance with CEQA.
 - a. Scope of Services:
 - i. Full EIR
 - ii. Construction/cultural monitoring
 - iii. Native habitat restoration
- 2) List company and individual team members' experience in providing same services, and number of years with the firm. Include name of projects and clients including any other community colleges.

D. References – 2 pages max. (100 points):

- 1) Provide a list of at least five (5) references, contact name, organization, job title, address, and phone number.
- 2) Provide authorization of all the principals to allow the District to make oral and/or written inquiries of all references listed, regarding your qualifications, performance, reasonableness of fees and charges, and quality of final results.

E. Proposed Fees and Costs – 5 pages (250 points):

- 1) A listing of fees for all members/positions of the Firm (their hourly rate), including any support personnel whose time is billed directly to clients.
- 2) Proposed fees shall include all anticipated fees to be incurred working on various projects. Please list all anticipated fees including any meetings and/or presentations to various colleges / community groups. Also include a statement of all normal and customary expenses. Identify any "reimbursables" that are included in the project fees, what are extra's not included.
- 3) Submit a proposal to provide an updated EIR including a revised traffic study for the San Marcos campus based upon the existing EIR (provided) for the campus but incorporating student housing. The District is interested in potentially constructing student housing on the San Marcos campus but it was not included in the current campus EIR. Firm is to assume the proposed student housing would consist of 750 student beds and would be completed and ready for occupancy in 2029.

F. Insurance – 5 pages (50 points):

- 1) Provide documentation that the firm can meet the District's insurance requirements and limits.

SECTION III: INFORMATION FOR RESPONDENTS

1. **Contact Information:** Your contact person at the District in reference to this RFQ/P is Allen Young, Contracts Administrator at (760) 744-1150, ext. 2697/email: ayoung@palomar.edu.
2. **RFQ/P Submittals:** Deadline for submittals is Thursday, February 2, 2022, **not later than 3:00 PM**. Please

send one (1) original electronic copy of your respective RFQ/P response to ayoung@palomar.edu and copy dastl@palomar.edu. Please **mail** (1) complete electronic copy on a flash/thumb drive in PDF format to The Office of Contract Services, Attn: Allen Young, Room A-128; Administration Building located at 1140 W. Mission Road, San Marcos, California 92069-1487 and labeled: *RFQ/P #200-23: ENVIRONMENTAL CONSULTING SERVICES* (Postmarked by February 2, 2023). The District will not accept any responses after the deadline date & time. Also no oral, telegraphic, facsimile or telephone statements will be considered. The District **does not** require firms to submit a printed hard copy of the proposal.

The District will reject as “non-responsive” any RFQ/P which is considered by the District at their discretion non-responsive to the material requirements of the RFQ/P.

3. **Errors/Discrepancies/Questions/Clarification of RFQ/P:** Any discrepancies, errors, questions or clarification pertaining to this RFQ/P should be directed in writing to Allen Young, Contracts Administrator at ayoung@palomar.edu. Respondents are encouraged to submit their questions, as soon as possible, in order to give the District an opportunity to reply in a timely manner. The District will not accept any questions for clarification after January 24, 2023.
4. **Addenda to RFQ/P:** If in the sole judgment of the District, any response to questions, discrepancies, clarification or errors which affects the RFQ/P or other Respondents, the District will issue responses in writing in the form of an addenda and post on the District’s website at the following address: <https://www.palomar.edu/businessservices/bids-rfqs-and-rfps/>. Prior to submittal of RFQ/P, please check above referenced website for any Addenda issued.
5. **RFQ/P Response Cost:** This Request for Qualification/Proposal does not commit the District to pay for any direct and/or indirect costs incurred in the preparation and presentation of a response. All finalists shall pay their own costs incurred in preparing for, traveling to and attending the interviews.
6. **RFQ/RFP Modification/Cancellation:** The District reserves the right to reject any and all RFQ/RFP submittals, to amend the RFQ/RFP and the RFQ/RFP process and to discontinue or re-open the process at any time.
7. **Non-Liability of District:** The District shall not be liable to the Respondent (Firm) for personal injury or property damage sustained in the performance of these services, however caused.
8. **Reservation Of Rights:** The District retains the right to negotiate the final proposed fee schedule, prior to recommending any respondents to the District’s Governing Board for a contract award.
9. **Notice to Proposers Regarding Public Records Act:** Responses to the RFQ/P will become the exclusive property of the District. At the time an “Environmental Consultant” is selected and the decision is made public, all documents shall be considered public records. Exceptions to this policy will be those elements in each submittal that are defined by your firm as business or trade secrets and marked “PROPRIETARY”, “TRADE SECRET” or “CONFIDENTIAL”. The District shall not be held responsible for the disclosure of any business or trade secrets that are not clearly identified.

SECTION IV: EVALUATION PROCESS

The District will evaluate the responses based on the qualifications, background, training, experience, and apparent reasonableness of the Firm’s fee structure. The District and the Selection Committee retains the right to exercise discretion in the weight and priority of the evaluation criteria which most benefits the District. The order of Firms to be interviewed (if required) will be selected randomly. The District retains the right to negotiate the final proposed fee schedule prior to recommending any Firm for a contract.

The District’s selection process is as follows:

- 1) The Selection Committee shall screen and rate all responses that are submitted. Ratings shall be based on the criteria set forth in Section II, Instruction for Qualified Submittals A through F. **A total of 800 points is possible (excluding interview, if required)**

- 2) If deemed necessary, the Selection Committee will select the short list of "Firms" that may be invited for interviews. Respondents selected by Selection Committee will be notified by telephone and in writing on their selection status, including the date, time, and information on the interview format and required materials.
- 3) If an interview is scheduled, the selection committee will invite the short listed "Environmental Firms" for a presentation/interview. The interview team shall include the team staff that will be assigned to work with District. Details of the content and time allowance for the presentation/interview will be provided to the short-listed firms upon notification of their selection for an interview.
- 4) All data, documents and other products used or developed during response to this RFQ/P remain the property of the Firm and not the District. Following entry into a satisfactory contract, all data, documents, drawings, calculations, and products developed by any Firm selected by the District, in the performance of its contract with the District, shall be the exclusive property of the District.
- 5) The RFQ/P preparation and associated cost are the sole responsibility of the submitter and will not be reimbursed by the District. The District reserves the right to reject any and all RFQ/Ps to amend the RFQ/P and the RFQ/P process, and to discontinue or re-open the process at any time.
- 6) The District shall not be liable to the submitter and its firm, organization, or team for personal injury or property damage sustained in the performance of these services, however caused.

EXHIBITS

ATTACHMENT "A"

INSURANCE AND FINANCIAL RESPONSIBILITY REQUIREMENTS

Palomar has requirements mandating that independent contractors and providers of professional services have in place, and provide evidence thereof to Palomar, general liability insurance, workers compensation coverage, and professional liability insurance. The successful Environmental Consulting Firm under the instant RFQ/P shall provide to the Office of Counsel, Contracts & Special Projects of the District, certificates of insurance, naming the Palomar Community College District, and its officers, agents and employees as additional named insureds on policies that are current for the term of the agreement contemplated through this RFQ/P process.

Comprehensive General Liability

The Environmental Consulting Firm shall carry at its own expense, adequate comprehensive general liability insurance from a carrier admitted to write said insurance in the State of California, to protect the Environmental Consulting Firm, its principals, officers and employees, and the District, its directors, officers, agents and employees, from any and all claims, suits, actions of any nature for damage to property and for personal injury, including death, arising out of or in any way connected with the services provided under any agreement with Palomar. The coverage shall include, in addition, all automobiles operated by the Environmental Consulting Firm that are covered while going to and from the site of the performance of services to Palomar, and while operating motor vehicles on Palomar property. Limits of this insurance shall be a minimum of \$1,000,000 per occurrence, with aggregate of \$3,000,000 per policy year.

Workers Compensation Coverage

Environmental Consulting Firm, its principals and employees are independent contractors, and not employees of Palomar. As an independent contractor, Environmental Consulting Firm shall carry workers compensation coverage with an approved provider in the State of California. The Environmental Consulting Firm shall defend and indemnify at its sole cost and expense, Palomar, its directors, officers, agents, and employees from and against all claims, demands, actions, and proceedings arising under the California Labor Code and/or regulations for workers compensation benefits, including disability claims for long term rating and compromise.

Professional Liability Insurance (Errors and Admissions)

Environmental Consulting Firm shall have in place and keep in force during the term of any agreement entered into hereunder; including tail coverage sufficient to cover all applicable statutes of limitation for the services rendered hereunder, professional liability insurance in an amount of \$1,000,000 per occurrence and an aggregate of no less than \$3,000,000. Environmental Consulting Firm and each of them individually, shall provide the following

information to Palomar prior to entering into any agreement arising out of this RFQ/P:

- A. A statement of disclosure of all complaints filed against the Environmental Consulting Firm, any of its principals and employees, or any of them, with California State licensing authorities for their particular specialty/profession, at any time during the last five years immediately preceding Environmental Consulting Firm's response to this RFQ/P, and a brief discussion of the disposition thereof.
- B. A Dun & Bradstreet or similar report on the Environmental Consulting Firm for its business/profession, current as of the date of submittal of its response to this RFQ/P. (This information shall be sealed in the separate envelope and District shall keep it confidential). Financial Statements to include: Most recent and current Balance sheet, income statement, statement of cash flows, and any other pertinent information including current financial, liquidity, and activity ratios that serve to validate the firm's financial viability, stability and current profit/loss position.
- C. Reliable credit references, including one Banking reference for the Environmental Consulting Firm's business account activities for the past five years immediately preceding their submission of reply to this RFQ/P, including the execution of a written release in favor of District authorizing District, its authorized agents and employees to obtain Banking and credit status for the past five years immediately preceding their reply to this RFQ/P.
- D. Certification Regarding Debarment, Suspension or Ineligibility for Award. The following certification is applicable only to contracts for \$25,000 or more, which are funded by Federal funds. By signing this Agreement, Respondent certifies that:
 - (a) Respondent and any of its principals and/or subcontractors are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and
 - (b) Have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, State or local government contract or subcontract; violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

ATTACHMENT B

NON-COLLUSION AFFIDAVIT

State of California)
)
County of _____)

I, _____ declare as follows:

That I am the _____ of _____,

the party making the foregoing proposal; that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived, or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from submitting a proposal; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the Contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

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

Proper Name of Proposer

Signature of Authorized Agent/Officer

Date

ATTACHMENT C

HOLD HARMLESS AGREEMENT

The Firm agrees to and does hereby indemnify and hold harmless the District, its officers, agents, and employees from every claim or demand made, and every liability, loss, damages, or expense, or any nature whatsoever, which may be incurred by reason of:

Liability for damages for (1) death or bodily injury to persons, (2) injury to, loss or theft of property, or (3) any other loss, damage or expense arising under either (1) or (2) above, sustained by the Firm or any person, firm or corporation employed by the Firm upon or in connection with the work called for in this Agreement, except for liability resulting from the sole negligence, willful misconduct, or active negligence of the District, its officers, employees, agents or independent consultants who are directly employed by the District; and

Any injury to or death of persons or damage to property caused by any act, neglect, default or omission of the Firm, or any person, firm, or corporation employed by the Firm, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm or corporation, including the District, arising out of, or in any way connected with the work covered by this agreement, whether said injury or damage occurs either on or off school District property, if the liability arose from the negligence or willful misconduct of anyone employed by the Firm, either directly or by independent contract.

The Firm, at his own expense, cost, and risk, shall defend any and all actions, suits, or other proceedings that may be brought or instituted against the District, its officers, agents or employees, on any such claim, demand or liability, and shall pay or satisfy any judgment that may be rendered against the District, its officers, agents or employees in any action, suit or other proceedings as a result thereof.

SUBMITTED BY:

Proper Name of Proposer

Signature of Authorized Agent/Officer

Print Name of Authorized Agent/Officer

Print Title of Authorized Agent/Officer

DATE: _____

ATTACHMENT D

CERTIFICATION REGARDING WORKERS' COMPENSATION

State of California Labor Code section 3700 in relevant part provides:

Every employer except the State shall secure the payment of compensation in one or more of the following ways:

1. By being insured against liability to pay compensation in one or more insurers duly write compensation insurance in this State.
2. By securing from the Director of Industrial Relations a certificate of consent to self-insure, either as an individual employer, or as one employer in a group of employers, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his or her employees.

I am aware of the provision of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of the code, and I will comply with such provisions before commencing the performance of work of this Contract.

Proper Name of Proposer

Signature of Authorized Agent/Officer

Date

In accordance with article 5 (commencing at section 1860), chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this Contract.

ATTACHMENT E

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (“Agreement”) dated **March 8, 2023** is entered into by and between the **Palomar Community College District** (“District”), and **Awarded Firm**, (“Consultant”), which are collectively referred to as the “Parties”. This Agreement is made and entered into with reference to the following recitals, each of which are incorporated into and made a part of this Agreement.

RECITALS

(A) In **January 2023**, the District issued a Request for Qualifications (RFQ) seeking responses from licensed and qualified Environmental Consultants to provide the comprehensive professional services necessary to obtain environmental clearance and entitlement to construct all of the projects that are included in the San Marcos campus – Facility Master Plan, hereinafter known as the “Project”.

(B) Consultant responded to RFQ and was invited to participate in interviews conducted by District. Consultant successfully competed for Project and the District’s Governing Board approved the selection of Consultant to provide the necessary services to assure that Project complies with the requirements of the California Environmental Quality Act (CEQA).

(C) Consultant understands and acknowledges that it is District’s intention to construct the Project through the public bidding process as provided in the Public Contracts Code, as applicable. For this reason, Consultant understands and acknowledges that it is vital that the District obtain certification of a Program/Project Environmental Impact Report that will environmentally clear approval and implementation of the San Marcos campus’ Facility Master Plan in compliance with the California Environmental Quality Act (CEQA). Given District’s stated purpose in hiring Consultant under this Agreement, Consultant and District have developed a Scope of Services consistent with District’s stated purpose. The Scope of Services is attached hereto as Exhibit “A” and incorporated herein by this reference.

(D) Consultant represents that they are competent to undertake the services necessary to perform the scope of services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that they are willing to accept responsibility for performing such scope of services in accordance with the terms and conditions set forth in this Agreement. Consultant further represents that it is familiar with the requirements of the California Education Code and the California Public Contract Code as applicable to performing its services under this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, District and Consultant agree as follows:

AGREEMENT

1. CONSULTANT’S SERVICES.

1.1. Consultant shall perform the services identified in the Scope of Services. District shall have the right to request, in writing, changes in the Scope of Services (“Changes”). Any Changes shall be incorporated by written amendment to this Agreement that shall set forth the increase or decrease in compensation, if any, and the anticipated time to complete the Changes.

1.2. Consultant shall perform all work to the generally accepted professional standards of Consultant’s profession and in a manner reasonably satisfactory to District. Consultant shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*).

1.3. During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute and (ii) District has not consented in writing to Consultant’s performance of such work.

1.4 Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Ms. Andrea Bitterling, Helix Environmental Planning, shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without District's prior written consent.

2. **COMPENSATION.**

2.1. District agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule; as fully described in Exhibit B hereto attached, provided however, in no event shall the total compensation and costs payable to Consultant under this Agreement exceed the agreed upon sum, unless specifically approved in advance and in writing by District as provided herein.

2.2. Consultant shall submit to District an invoice, on a monthly basis for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within ten business days of receipt of each invoice, District shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty calendar days of receipt of each invoice, District shall pay all undisputed amounts included on the invoice. District shall not withhold applicable taxes or other authorized deductions from payments made to Consultant.

2.3. Subject to Section 1.1, payments for Changes shall be made to Consultant by District on a time-and-materials basis using Consultant's standard fee schedule.

3. **OWNERSHIP OF WRITTEN PRODUCTS.**

All reports, documents or other written material ("written products" herein) developed by Consultant in the performance of this Agreement shall be and remain the property of District without restriction or limitation upon its use or dissemination by District. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

4. **RELATIONSHIP OF PARTIES.**

Consultant is, and shall at all times remain as to District, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of District or otherwise to act on behalf of District as an agent. Neither District nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not represent that it is, or that any of its agents or employees are, in any manner employees of District.

5. **INDEMNIFICATION.**

5.1 The parties agree that District, its officers and employees should, to the fullest extent permitted by law, be held harmless from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement to the extent caused by the negligent acts, errors, or omissions of Consultant. Accordingly, the provisions of this indemnity provision are intended by the parties to be interpreted and construed to provide the District with the fullest protection possible under the law. Consultant acknowledges that District would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect District as set forth herein.

5.2 To the fullest extent permitted by law, Consultant shall indemnify, hold harmless District, its officers, employees from and against any and all losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of District's choice.

5.3. District shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due District from Consultant as a result of Consultant's failure to pay District promptly any indemnification arising under this Section 10 and related to Consultant's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

5.4. The obligations of Consultant under this Section 6 will not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to District, its officers, agents, employees and volunteers.

5.5. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 6 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, hold harmless District, its officers, employees from and against any and all losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of District's choice.

5.6. District does not, and shall not; waive any rights that it may possess against Consultant because of the acceptance by District, or the deposit with District, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

6. **INSURANCE.**

6.1. During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

6.1.1. Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) including products and operations hazard, contractual insurance, broad form property damage, independent consultants, personal injury, underground hazard, and explosion and collapse hazard where applicable.

6.1.2. Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident.

6.1.3. Worker's Compensation insurance as required by the laws of the State of California.

6.1.4. Professional Errors and Omissions Insurance with coverage limits of not less than One Million Dollars (\$1,000,000).

6.2. Consultant shall require each of its subcontractors to maintain insurance coverage that meets all of the requirements of this Agreement.

6.3. The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A: VIII in the latest edition of Best's Insurance Guide.

6.4. Consultant agrees that if it does not keep the aforesaid insurance in full force and effect, District may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Consultant's expense, the premium thereon.

6.5. At all times during the term of this Agreement, Consultant shall maintain on file with District's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the District and its officers, employees, agents and volunteers as additional insureds. Consultant shall, prior to commencement of work under this Agreement, file with District's Risk Manager such certificate(s).

6.6. Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

6.7. The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming District and its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to District. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

6.8. The insurance provided by Consultant shall be primary to any coverage available to District. Any insurance or self-insurance maintained by District and/or its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

6.9. All insurance coverage provided pursuant to this Agreement shall not prohibit Consultant, and Consultant's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against the District.

6.10. Any deductibles or self-insured retentions must be declared to and approved by the District. At the option of District, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to District, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

6.11. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 6 of this Agreement.

7. **MUTUAL COOPERATION.**

7.1 District shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

7.2. In the event any claim or action is brought against District relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that District may require.

8. **RECORDS AND INSPECTIONS.**

8.1. Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. District shall have the right to access and examine such records, without charge, during normal business hours. District shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

8.2. All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by District. District shall grant such consent if disclosure is legally required. Upon request, all District data shall be returned to District upon the termination or expiration of this Agreement.

9. **PERMITS AND APPROVALS.** Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, safety permits and inspections.

10. **NOTICES.** Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and District's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

If to District
Attn: Contract Services
Palomar Community College District
1140 W. Mission Road
San Marcos, CA 92069-2487
Telephone: (760) 744-1150 x 2129
Email: contracts@palomar.edu

If to Consultant:

Attn

Award Firm

Address

Address

Telephone

Email

11. **SURVIVING COVENANTS.** The Parties agree that the covenants contained in Sections 5, 7.2, 8, and 12 of this Agreement shall survive the expiration or termination of this Agreement.

12. **TERM AND TERMINATION.**12.1 The Consultant shall perform services for Project requested by the District during the year to year term of this Agreement for a total period of up to five (5) calendar years, effective August 10, 2016.

12.2 Either Consultant or District may terminate this Agreement upon five (5) days advance written notice to the other if the other party is in default in performance of a material obligation hereunder and such default is not caused by the party initiating the termination. Such termination shall be effective the fifth (5th) day following the date of the written termination notice. In addition to the District's right to terminate this Agreement for Consultant's default, the District may terminate this Agreement if: (i) Consultant becomes bankrupt or insolvent, including the filing of a general assignment for the benefit of creditors; or (ii) if Consultant disregards applicable laws, codes, ordinances, rules or regulations. If the District exercises the right of termination hereunder, the amount due Consultant shall be based upon Scope of Services and authorized Changes completed by Consultant as of the effective date of termination, reduced by damages, losses, costs or other expenses incurred or sustained by the District as a result of Consultant's default.

12.3 The District may, at any time, upon thirty (30) days advance written notice to Consultant, terminate this Agreement for the District's convenience. If the District elects to terminate for convenience, within thirty (30) days following the effective date of such termination for convenience, the District will make payment to Consultant for the Basic Services and authorized Changes provided prior to the effective date of the termination for convenience.

12.4 The District may, in its discretion, suspend all or a part the Scope of Services for such duration as determined solely by the District. If the period of suspension directed by the District exceeds sixty (60) or more consecutive calendar days and such suspension is not caused in whole or in part by the neglect or fault of the Consultant or any District approved Sub-consultant or Consultant's breach of this Agreement, upon resumption of the Scope of Services, the Contract Price shall be subject to adjustment to reflect actual costs and expenses incurred by the Consultant as a direct and sole result of the suspension directed by the District.

12.5 In the event of a dispute between the Consultant and the District, Consultant agrees that it will not stop work under this Agreement pending the resolution of any such dispute

13. **GENERAL PROVISIONS.**

13.1 Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without District's prior written consent, and any attempt to do so shall be void and of no effect. District shall not be obligated or liable under this Agreement to any party other than Consultant.

13.2 In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

13.3 The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

13.4. The waiver by District or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by District or Consultant unless in writing.

13.5. Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in District's sole judgment that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

13.6. Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be San Diego County, California.

13.7. If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

13.8. This Agreement shall be governed and construed in accordance with the laws of the State of California.

13.9. All documents referenced as exhibits in this Agreement are hereby incorporated into this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

13.10 Time is of the essence to this Agreement. The time for performance of any obligation hereunder by either party shall be extended only if performance of the obligation is delayed or prevented by the conduct of the other Party, acts of God, labor disturbances or other events outside of the control of the Parties.

13.11 This instrument contains the entire Agreement between the District and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the parties. Amendments hereto or deviations here from shall be effective and binding only if made in writing and executed by District and Consultant.

TO EFFECTUATE THIS AGREEMENT, the parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

Palomar Community College District

[Awarded Firm](#)

By: _____
Ronald E. Ballesteros-Perez, Asst.
Superintendent/Vice President Finance &
Administrative Services

By: _____
Signature

Date: _____

Print Name & Title

Approved by the PCCD Governing Board: 8/9/16

Date: _____

SAMPLE

Exhibit A

Add Awarded Firm's RFQ/P submittal

SAMPLE