



Commissioning Services for the Southwestern Community College District
900 Otay Lakes Road | Chula Vista, CA 91910

REQUEST FOR QUALIFICATIONS (RFQ) No. 131 Commissioning Services

Southwestern Community College District invites statements of qualifications from qualified providers of commissioning services or Commissioning Authorities (CxA) for the design and construction phases of all Proposition R Projects and other miscellaneous projects as may be required. As of October 2011, the Proposition R Budget is approximately 389 million dollars.

Qualifications proposals will be accepted at the Bond Program Management Office located at 900 Otay Lakes Road, Building 1688, Chula Vista, CA 91910 no later than 12:00 p.m. (local time) on November 3, 2011. Offers received after this date and time may, at the discretion of the District, be rejected without consideration.

Faxed or emailed qualifications will not be accepted.

Instructions for preparing your response are contained in the attached RFQ. Questions must be in writing and directed to Alex Munro of Seville Construction Services by 4:00 PM October 28, 2011 at amunro@swccd.edu. We look forward to receiving your responses.

1. GENERAL INFORMATION

A. Purpose of RFQ

The Southwestern Community College District (District) is seeking qualifications from qualified providers of commissioning services or Commissioning Authorities (CxA) for the design and construction phases of all Proposition R Projects and other miscellaneous projects as may be required. Potential phase one Proposition R Projects are:

1. National City New Two Story Facility
2. Corner Lot Project
3. Central Plant/Field House Project
4. Remodel of Cafeteria Building 610
5. Energy Efficient Project Upgrades
6. Updated Security, Fire Alarms and Technology
7. PV/Solar Project
8. Mayan Hall (Theater) Renovation
9. Remodel Building 100
10. Remodel Building 200

The services to be performed under the RFQ are necessary to obtain Leadership in Energy and Environmental Design (LEED) certification and/or additional quality assurance/quality control on upcoming Proposition R Projects. The scope of services is described in section 4 of this RFQ.

It is expected that some design and construction work undertaken by the District will include requirements by the State of California, California Community College's Chancellor's Office, City of Chula Vista, other local State and Federal agencies, and participation of Disabled Veterans Business Enterprises (DVBE). Demonstrated educational experience and specific experience with the Division of State Architect (DSA), the Uniform Building Code (UBC), Title 24 of the California Code of Regulations, and the United States Green Building Council (USGBC) is mandatory.

B. Anticipated Time Schedule

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| 1. RFQ Issued: | October 20, 2011 |
| 2. Optional Pre-Proposal: | October 27, 2011 2:00 PM |
| <i>Meeting Location:</i> | <i>900 Otay Lakes Road, Building 1688
Chula Vista, CA 91910</i> |
| 3. Last Day for Questions: | October 28, 2011 4:00 PM |
| 4. Submittal: | November 3, 2011 12:00 PM |
| 5. Anticipated Notice of Short List: | November 18, 2011 |

C. Response Submittal

The respondent shall submit one (1) original, three (3) copies, and one (1) PDF on a flash drive with OCR text recognition of its response by 12:00 p.m. (local time), November 3, 2011 to:

Southwestern Community College District
Bond Program Office
900 Otay Lakes Road, Building 1688
Chula Vista, California 91910

Responses received after 12:00 p.m., November 3, 2011, may, at the sole discretion of the District, be rejected as non-responsive and returned without review. It is the practice of the District not to consider late offers unless it is determined that a selection cannot be made from among the responses received on time. In order to be considered "on time," a response must either be date-stamped or bear a handwritten inscription by an authorized representative of the District's Bond Program confirming receipt by the above-specified deadline.

The District shall not be responsible for, nor accept as a valid excuse for late response delivery, any delay in mail service or other method of delivery used by the respondent.

Faxed or emailed RFQ's will not be accepted.

All responses shall be enclosed in a sealed package(s) plainly marked with the words "Response to RFQ No 131; Do Not Open until November 3, 2011."

All responses shall be firm offers subject to acceptance by the District and may not be withdrawn for a period of 120 calendar days following the last day to accept responses. Responses may not be amended after the due date except by the consent of the District.

D. Questions from Respondents

Questions or comments regarding this RFQ (except to inquire about the number of addenda issued) must be in writing and received no later than 4:00 p.m. (local time) on October 28, 2011. Written questions are to be emailed to Alex Munro, at amunro@swccd.edu.

E. RFQ Addenda/Clarifications

If it becomes necessary for the District to revise any part of this RFQ, or to provide clarification or additional information after the response documents are released, a written addendum will be issued. Addenda will be posted on the Southwestern Community College District's Bond Website at www.buildswc.com. It shall be the responsibility of the respondents to check this website frequently to ensure that they have all addenda issued. All addenda issued shall become part of the RFQ.

In addition, responses to written questions received will be incorporated in an RFQ addendum.

F. Pre-contractual Expenses

Pre-contractual expenses are defined as any expenses incurred by the respondent in: (1) preparing its response to this RFQ; (2) submitting that response to the District; (3) negotiating with the District any matter related to this RFQ, including a possible contract; or (4) engaging in any other activity prior to the effective date of award, if any, of a contract resulting from this RFQ. The District shall not, under any circumstance, be liable for any pre-contractual expenses incurred by respondents, and respondents shall not include any such expenses as part of their responses.

G. No Commitment to Award

Issuance of this RFQ and receipt of responses does not commit the District to award a contract. The District expressly reserves the right to postpone response opening for its own convenience, to accept or reject any or all responses received to this RFQ, to negotiate with more than one respondent concurrently, to cancel all or part of this RFQ, or to re-issue RFQ for its own convenience. Award of RFQ is final and without appeal.

By responding to this RFQ 131, respondents accept that the District may choose to reissue a different RFQ for these same services in the future -- even after short-listing firms and/or awarding contracts related to this RFQ. The District, for example, may choose to re-issue an RFQ for these services at the start of different Phase R phases.

H. Joint Offers

Where two or more respondents desire to submit a single response to this RFQ, they should do so on a prime-sub consultant basis rather than as a joint venture or informal team. The District intends to contract with single firms and not with multiple firms doing business as a joint venture.

I. Exceptions/Deviations

Any exceptions to or deviations from the requirements set forth in this RFQ must be declared in the response submitted by the respondent. Such exceptions or deviations must be segregated as a separate element of the response under the heading "Exceptions and Deviations," and incorporated in the Appendix section of your submittal.

J. Insurance

1. During the term of this Contract, the CxA, at its own cost and expense, must procure and maintain the following types of insurance:
 - Statutory Workers' Compensation, as required by the California Labor Code, and Employer's Liability with limits not less than \$1,000,000 per occurrence; and

- Commercial General and Auto Liability insurance, with limits not less than \$1,000,000 per occurrence/\$2,000,000 aggregate; and
 - Professional liability insurance, with limits of \$1,000,000 per claim.
2. Prior to the commencement of work, the CxA shall furnish the District with insurance endorsements evidencing the above insurance coverage and further indicating that the CxA's policies have been endorsed to name the "Southwestern Community College District, Its Board of Trustees, and its Program Management Consultant" as an additional insured thereon, with provision made for cross liability. The endorsements shall further provide that the "Consultant's" policy is primary of any insurance carried by the District" and that "the policy will not be canceled or materially changed without thirty (30) days prior notice in writing" being given to the District's Project Manager.
 3. All evidence of insurance coverage required to be submitted in accordance with Section J shall be delivered to the addressee for the District specified in the Agreement for services to this program. The District shall make the final determination as to whether the documentation submitted by the CxA conforms to the requirements of Section J.
 4. If any sub consultant(s), subcontractor(s) or independent contractor(s) is utilized by the CxA for the purpose of carrying out portions of this Contract, said subcontractor(s) or independent contractor(s) shall also be required to comply with the insurance provisions set forth in Section J and the indemnification provisions set forth in Agreement for Services.

K. Indemnification

The CxA agrees to indemnify, defend and hold harmless the District, its officers, agents and employees from any and all liability, claims, debts, damages, suits, actions and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the CxA in the negligent performance of this Contract. The District agrees to indemnify, defend and hold harmless the CxA from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the District in the negligent performance of this Contract.

2. RESPONSE FORMAT AND CONTENT

A. Presentation

Responses shall be submitted in 8 ½" x 11" sizes in 3-ring binder, utilizing both sides of the paper. Responses should be typed and should not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged; presentations should be brief and concise. The form, content and sequence of the response should follow the outline presented below.

B. Response Content

1. **Transmittal Letter/Introduction (1 page maximum):** The letter of transmittal shall be addressed to the Bob DeLiso, Bond Program Director, 900 Otay Lakes Road, Building 1688,

Chula Vista, CA 91910 and must, at a minimum, contain the following:

- identification of the offering firm(s), including name, mailing address, E-mail address, telephone number and fax number of each firm;
 - acknowledgment of receipt of RFQ addenda, if any;
 - name, title, address and telephone number, email address and fax number of contact person during period of response evaluation;
 - a statement to the effect that the response shall remain valid for a period of not less than one hundred-twenty (120) days from the due date for responses;
 - identification of any information contained in the response which the respondent deems to be, and establishes as, confidential or proprietary and wishes to be withheld from disclosure to others under the state Public Records Act (a blanket statement that all contents of the response are confidential or proprietary will not be honored by the District); and
 - signature of a person authorized to bind the offering firm to the terms of the response.
2. **Table of Contents:** Immediately following the transmittal letter/introduction, there should be a complete table of contents for material included in the response.
3. **Firm Qualifications:** Briefly furnish background information about your firm, including date of founding, legal form (sole proprietorship, partnership, corporation/state of incorporation), number and location of offices, and principal lines of business. **Certify** that the firm is legally permitted or licensed to conduct business in the State of California for the services offered.
4. **Firm Experience and References Overview:** This section should establish the ability of the respondent (and its sub consultants, if any) to satisfactorily perform the required work. Provide examples of similar project experience. As a minimum, please include the following per project experience:
- Project Name, Location – Year Complete
 - Brief project description describing how the project relates to requested commissioning scope and the Proposition R Bond Program.
 - Owner Name, Title, and current phone number: The District will verify all contact information.
 - Information should be furnished for both the respondent and any sub consultants included in the offer.
5. **Project Manager/CxA Knowledge, Skills, and Experience:** This section should include a summary of the proposed project manager and CxA for the program. Include a resume and references for the proposed individuals.
6. **Small Business Outreach:** Provide brief summary of firm's experience of working with small businesses and past outreach to small businesses.
7. **Cost/Fee:** This section should disclose all charges at a cost per hour to be assessed to the District for the required services and declare the respondent's preferences for method and timing of payment.
8. **Exceptions/Deviations:** State any exceptions to or deviations from the requirements of this RFQ and the District Contract for Commissioning Services attached to the RFQ under Exhibit A. If you wish to present alternative approaches to meet the District's work requirements,

these should be thoroughly explained.

The exceptions/deviations should be clearly noted under separate headings as:

- Exceptions/Deviations RFQ – Reference Location
- Exceptions/Deviations Contract – Reference Location

- 9. Litigation and Claims:** Furnish as an appendix and provide specific information on termination for default, litigation settled or judgments entered within the last five (5) years, and civil judgments or criminal convictions for false claims within the last five (5) years.

3. RESPONSE EVALUATION AND CONTRACT AWARD

A. Evaluation Panel

An Evaluation Panel consisting of District and Bond Management staff will be responsible for reviewing, analyzing and evaluating the responses received. The Evaluation Panel will select the successful respondent(s).

In addition to its own staff, the District may utilize the unpaid services of one or more individuals from other agencies in the evaluation of responses.

B. Evaluation Criteria

By use of numerical and narrative scoring techniques, responses will be evaluated by the Evaluation Panel against the factors specified below, which are listed in descending order of weight and importance. Within each evaluation criterion listed, the subcriteria to be considered are those described in the "Response Format and Content" section of this RFQ.

- 1. Firm Qualifications (30 Points)**
- 2. Firm Experience (30 Points)**
- 3. Project Manager and CxA Knowledge, Skills, and Experience (20 Points)**
- 4. Firm References (15 Points)**
- 5. Small Business Outreach (5 Points)**

100 Points Total

Upon selection of the most qualified respondents, the District may require the finalists to make an oral presentation to the Evaluation Panel to further explain their qualifications. If such interviews are conducted, the District's appraisals of the presentations will also be factored into the final scores assigned to the responses. However, respondents are advised that award may be made without interviews or further discussion.

The District expressly reserves the right to reject any or all qualifications, with or without giving a reason, and to waive any irregularities or informalities in the offers received. In the event of any such rejection, or in the event a respondent's offer is not rejected but does not result in a contract award, the District shall not be liable for any costs incurred by the respondent in connection with the preparation and submittal of the response.

C. Contract Award

It is the intent of the District to award one or more contracts as the result of this RFQ. However, the District reserves the right to apportion the requirements of this RFQ among multiple consultants if this is determined to be in the District's best interests. The contract(s) resulting from this RFQ will be required to be approved by the District's Board of Trustees. No minimum amount of work is guaranteed.

A respondents' inability to deliver the staff outlined in the proposal at the time of contract negotiations may be grounds for the District to re-evaluate its plan for contract award, and could result in changes being made to the District's selected short-list.

4. SCOPE OF SERVICES

A. The following is a summary of the commissioning process, which the District intends to have implemented on this program. The CxA may provide the District with suggested changes and improvements to this process.

1. CxA will ensure that the design objectives and intent are clearly documented.
2. CxA will assist District and take the necessary steps to create the necessary documentation required for all commissioning review per LEED requirements. This may include enhanced commissioning.
3. CxA will perform a focused review of construction documents.
4. CxA will develop a Commissioning Plan.
5. CxA will conduct a scoping meeting where the commissioning process is reviewed with the commissioning team members. CxA will schedule additional meetings, as necessary, throughout construction, to plan, scope, coordinate, and schedule future activities and resolve problems.
6. Implementation and oversight of measurement and verification per LEED.
7. Equipment documentation is submitted to the CxA during normal submittals, including detailed start-up procedures.
8. CxA works with the contractors/subcontractors in developing start-up plans and start-up documentation formats. The CxA shall provide contractors/subcontractors with pre-functional checklists to be completed during the startup process.
9. In general, the checkout and performance verification proceeds from simple to complex; from component level to equipment to systems and intersystem levels, with pre-functional checklists being completed before actual functional testing
10. Subcontractors, under their own direction, execute and document the pre-functional checklists and perform startup and initial checkout. The CxA documents that the checklists and startup were completed according to the approved plans. This shall include the CxA witnessing startup of selected equipment.
11. CxA develops specific equipment and system functional performance test procedures.
12. The sub contractors review and execute the procedures under the direction of, and documented by the CxA.
13. Items of non-compliance are corrected and the system re-tested at the subcontractor's expense.
14. The CxA reviews the Operations and Maintenance (O&M) documentation for completeness.
15. Commissioning is completed before Substantial Completion.
16. The CxA reviews, pre-approves and coordinates the training provided by the subcontractors and verifies that it was completed.

District may choose to use some, all, or none of the commissioning tasked stated above for a given project.

B. The CxA is not responsible for design concept, design criteria, compliance with codes, design or general construction scheduling, cost estimating, or construction management. The CxA may assist with problem-solving or resolving non-conformance or deficiencies, but ultimately that responsibility resides with the construction manager, general contractor, or prime contractor and the A/E. The primary role of the CxA is to develop and coordinate the execution of a testing plan and observe and document performance, that is, determine whether systems are functioning in accordance with the Contract Documents. The contractors will provide all tools or the use of tools to start checkout, and functionally test equipment and systems, except for specified testing with portable data-loggers, which shall be supplied and installed by the CxA. Specific tasks the CxA shall be responsible for include:

1. Coordinate and direct the commissioning activities in a logical, sequential and efficient manner using consistent protocols and forms, centralized documentation and clear and regular communications and consultations with all necessary parties.
2. Develop clear commissioning specifications and the functional testing requirements included in the construction bid documents.
3. Before startup, gather and review the current control sequences and interlocks, and work with contractors and design engineers until sufficient clarity has been obtained to be able to write detailed testing procedures.
4. Review contractor submittals applicable to systems being commissioned for compliance with commissioning needs.
5. Write and distribute pre-functional tests and checklists.
6. Develop an enhanced start-up and initial systems checkout plan with subcontractors.
7. Perform site visits, as necessary, to observe component and system installations.
8. Attend selected planning and job-site meetings to obtain information on construction progress.
9. Review construction meeting minutes for revisions/substitutions relating to the commissioning process.
10. Assist in resolving any discrepancies.
11. Witness all or part of the plumbing and HVAC piping test and flushing procedure, sufficient to be confident that proper procedures were followed.
12. Document this testing, and include documentation in O&M manuals.
13. Notify project manager of any deficiencies in results or procedures.
14. Witness all or part of any ductwork testing and cleaning procedures, sufficient to be confident that proper procedures were followed. Document this testing, and include documentation in O&M manuals. Notify project manager of any deficiencies in results or procedures.
15. Approve pre-functional tests by reviewing pre-functional checklist reports or by direct site observation.
16. Approve air and water systems balancing by spot testing and by reviewing completed reports and by selected site observation.
17. With necessary assistance and review from installing contractors, write the functional performance test procedures for equipment and systems. This may include energy management control system trending, stand-alone data-logger monitoring or manual functional testing. Submit to project manager for review.
18. Analyze any functional performance trend logs and monitoring data to verify performance.
19. Coordinate, witness, and approve manual functional performance tests performed by installing contractors. Coordinate re-testing as necessary until satisfactory performance is achieved.
20. Maintain a master deficiency and resolution log and a separate testing record. Provide to the project manager written progress reports and test results with recommended actions. This

- must be performed by the CxA in a timely manner as to keep pace with the contractor(s) progress.
21. Oversee and approve the factory authorized operator-level technicians' training for the District's operating personnel.
 22. Review and approve the preparation of the O&M manuals. CxA shall work with the contractors and design professionals to ensure that verified and approved operation and maintenance manuals are provided to the District in a timely manner.
 23. Provide a final commissioning report, which shall include:
 - An executive summary, list of participants and roles, brief building description, overview of commissioning and testing scope, and a general description of testing and verification methods.
 - For each piece of commissioned equipment, the report should contain the disposition of the CxA regarding the adequacy of the equipment, documentation, and training needed to meet the contract documents in the following areas:
 - Equipment per equipment specifications.
 - Equipment installation.
 - Functional performance and efficiency.
 - Equipment documentation and design intent.
 - Operator training. All outstanding non-compliance items shall be specifically listed.
 - Recommendations for improvement to equipment or operations, future actions, commissioning process changes, etc. shall also be listed. Each non-compliance issue shall be referenced to the specific functional test, inspection, trend log, etc. where the deficiency is documented.
 24. The functional performance and efficiency section for each piece of equipment, shall include a brief description of the verification method used (e.g. manual testing, BAS trend logs, data loggers, etc.) including observations and conclusions from the testing.
 - Appendices shall contain acquired sequence documentation, logs, meeting minutes, progress reports, deficiency lists, site visit reports, findings, unresolved issues, communications, etc. Pre-functional checklists and functional tests, along with blanks for the operators, and monitoring data and analysis will be provided in a separate labeled binder.
 25. Develop a Systems and Concepts Manual that consists of the design narrative (design intent, design concept descriptions, design basis and systems description), space and use descriptions, single line drawings and schematics for major systems, control drawings, sequences of control, table of all set points and implications when changing them, schedules, instructions for operation of each piece of equipment for emergencies, seasonal adjustment, startup and shutdown, instructions for energy savings operations and descriptions of the energy savings strategies in the facility, recommendations for re-commissioning frequency by equipment type, energy tracking recommendations, and recommended standard trend logs with a brief description of what to look for in them.
 26. During the warranty period coordinate and supervise required seasonal or deferred testing and deficiency corrections and provide the final testing documentation for the commissioning and deficiency corrections and O&M manuals. Two months before warranty expiration date review with facility staff the building operation and condition of outstanding issues related to the original seasonal commissioning.
 27. Obtain contractors' maintenance procedures and documentation performed during the warranty period.

District may choose to use some, all, or none of the commissioning tasked stated above for a given project.

C. Systems Which may be Commissioned (Selected on a Project by Project Basis):

1. The following systems, including all components and controls, may be commissioned (selected on a project by project basis):
 - Central building automation systems.
 - All equipment of the heating, ventilating and air conditioning systems.
 - Scheduled or occupancy sensor lighting controls.
 - Daylight dimming controls.
 - Uninterruptible power supply systems.
 - Life safety systems (fire alarm, egress pressurization, fire protection).
 - Laboratory, hoods and pressurization.
 - Electrical.
 - Domestic water systems.
 - Data & communication.
 - Security systems.
 - Irrigation.
 - Plumbing.
 - Vertical transportation.
 - Building envelope.
 - Lighting systems.
 - Kitchen Equipment
 - Domestic boilers including hot water system and recirculation.

District may choose to use some, all, or none of the commissioned systems stated above for a given project.

D. The following outlines the level of effort expected for each commissioned system:

1. The CxA shall review the design documentation (design intent, basis of design and sequences of operation) for completeness. The CxA shall develop pre-functional checklists for the installing contractors to include in their startup and initial checkout. The CxA shall develop detailed written test procedures for guiding and documenting performance during functional testing.
2. The functional testing shall include operating the system and components through each of the written sequences of operation, and other significant modes and sequences, including startup, shutdown, unoccupied mode, manual mode, staging, miscellaneous alarms, power failure, security alarm when impacted and interlocks with other systems or equipment. Sensors and actuators shall be calibrated during pre-functional check listing by the installing contractors, and spot-checked by the CxA during functional testing.
3. Tests on respective HVAC equipment shall be executed, if possible, during both the heating and cooling season. However, some overwriting of control values to simulate seasonal conditions shall be allowed. The central plant shall have its efficiency bench-marked for later use by operations staff. Functional testing shall be done using conventional manual methods, control system trend logs, and read-outs or stand-alone data loggers, to provide a high level of confidence in proper system function, as deemed appropriate by the CxA and the District.
4. CxA to verify that isolation valves are installed per plans and specifications.
5. CxA to verify circuit breaker designations and labeling.
6. CxA to verify equipment designations and labeling.
7. CxA to assist with other LEED requirements as may be determined necessary by the District.

District may choose to modify the effort expected for each commissioned system stated above for a given project.

EXHIBIT A

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT INDEPENDENT CONTRACTOR AGREEMENT

WHEREAS, it is the desire of the Governing Board of the Southwestern Community College District (hereinafter referred to as "District") to contract with **FIRM NAME** as an Independent Contractor (hereinafter referred to as "Commissioning Authority" or "CxA"); and whereas such service will assist the Governing Board in discharging its legal obligation to provide an adequate educational program; and whereas Government Code section 53060 authorizes the Governing Board to enter into contracts to obtain special services and advice in financial, economic, accounting, engineering, legal or administrative matters for the District; and

WHEREAS, the CxA has represented to the Governing Board that the CxA is knowledgeable and qualified in skills required for this project and covenants that the CxA is capable of performing the services required under this Agreement; and

WHEREAS, the Governing Board recognizes that the CxA is acting as an independent contractor in the performance of work under this Contract, and that the CxA shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of work under this Contract; and

WHEREAS, the CxA understands that, for purposes of this Agreement, the CxA is not an employee of the District and does not qualify for employee benefits, including workers' compensation benefits;

NOW THEREFORE, the following is agreed:

I. SERVICES AND WORK PRODUCT(S) TO BE RENDERED BY THE CxA.

- a. The CxA agrees to undertake, carry out and complete for the Governing Board, in a satisfactory and competent manner, the following services:
 1. Provide the following commissioning services for **PROJECT NAME** as outlined in Exhibit "A" of this Agreement.
 2. Provide the following commissioning services for **PROJECT NAME** as outlined in Exhibit "B" of this Agreement.
 3. In the event of a conflict between Exhibit "A" and Exhibit "B", the higher quality, higher quantity and the most stringent requirements shall be deemed to apply and shall govern as to services, materials, workmanship, and installation procedures.

II. COMPENSATION, MAXIMUM COST, AND PAYMENT.

- a. In consideration of the services to be rendered by the CxA as outlined in this Agreement, the Governing Board agrees to pay the CxA a total **lump sum** amount of **DOLLAR AMOUNT AND XX/100 DOLLARS (\$XXXX.XX)** per the proposal dated **DATE** as identified in Exhibit "B".

1. Payments shall be made in accordance with the schedule of values as outlined in Exhibit "B" of this Agreement.

- b. Invoice shall be processed within thirty (30) days upon receipt and approval by the District of an invoice, in triplicate, showing services rendered for the period covered by the invoice.
- c. All invoices submitted must contain the following certification statement: "I certify that payment requested is for appropriate purposes and in accordance with the provisions of the Contract." All invoices must be signed by the CxA's Chief Financial Officer or District approved designee.
 - 1. All invoices must have a "wet" original signature of Chief Financial Officer or District approved designee.
- d. The CxA certifies that the CxA has not and will not receive pay for the same services or days of service by any other public agency.
- e. District shall not be liable to the CxA for any costs or expenses paid or incurred by the CxA in performing services for District, unless otherwise specifically stated in this Contract.

III. PERIOD OF PERFORMANCE.

This period covered by this Agreement shall begin on DATE and shall terminate on DATE.

IV. CONFLICT OF INTEREST.

If the District determines that the CxA is a "Consultant" under Political Reform Act of 1974, the CxA shall comply with all applicable Conflict of Interest laws, including the filing of a Statement of Economic Interest, pursuant to the District's Conflict Code, under a disclosure category or categories as determined by the District's Superintendent/President.

V. INDEPENDENT CONTRACTOR.

The CxA, in the performance of this Contract, shall be and act as an independent contractor. The CxA understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. The CxA assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the service to be provided under this Contract.

VI. TAXES.

The CxA acknowledges and agrees that it is the sole responsibility of the CxA to report as income its compensation received from District and to make the requisite tax filings and payments to the appropriate federal, state or local tax authority. No part of the CxA's compensation shall be subject to withholding by District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.

VII. MATERIALS.

The CxA shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Contract unless otherwise specifically stated in the Contract. The CxA's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession.

VIII. AUDIT AND INSPECTION OF RECORDS.

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

IX. CONFIDENTIALITY AND USE OF INFORMATION.

- a. The CxA shall hold in trust for the District, and shall not disclose to any person, any confidential information. Confidential information is information which is related to the District's research, development, trade secrets and business affairs; but does not include information which is generally known or easily ascertainable by nonparties through available public documentation.
- b. The CxA shall advise the District of any and all materials used, or recommended for use by consultant to achieve the project goals, that are subject to any copyright restrictions or requirements. In the event the CxA shall fail to so advise the District and as a result of the use of any programs or materials developed by the CxA under this Contract the District should be found in violation of any copyright restrictions or requirements, or the District should be alleged to be in violation of any copyright restrictions or requirements, the CxA agrees to indemnify, defend and hold harmless, District against any action or claim brought by the copyright holder.

X. EQUAL OPPORTUNITY/NON-DISCRIMINATION.

The CxA shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, disability, medical condition, or marital status.

The CxA shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin. The CxA shall comply with the Americans with Disabilities Act and the Rehabilitation Act of 1973, as amended.

XI. HOLD HARMLESS.

The CxA agrees to indemnify, defend and hold harmless the District, its officers, agents and employees from any and all liability, claims, debts, damages, suits, actions and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the CxA in the negligent performance of this Contract. The District agrees to indemnify, defend and hold harmless the CxA from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the District in the negligent performance of this Contract.

XII. TERMINATION.

The District may, at any time, with or without reason, terminate this Contract upon the giving of thirty (30) days prior written notice to the other party. In the event of termination, the CxA shall be entitled to payment only for acceptable and allowable work performed under this Contract through the date of termination. Written notice by the District shall be sufficient to stop further performance of services by the CxA. Notice shall be deemed given when received by the CxA or not later than five (5) days after the day of mailing, whichever is sooner.

District may also terminate this Contract upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this Contract by the CxA; (b) any act by the CxA exposing the District to liability to others for personal injury or property damage; or (c) if the CxA is adjudged a bankrupt, the CxA makes a general assignment for the benefit of creditors or a receiver is appointed on account of the CxA's insolvency. Written notice by District of termination for cause shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the District may secure the required services from another CxA. If the cost to the District of obtaining the services from another CxA exceeds the cost of providing the service pursuant to this Contract, the excess cost shall be charged to and collected from the CxA. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District. Written notice by District shall be deemed given when received by the other party, or no later than five (5) days after the day of mailing, whichever is sooner.

XIII. INSURANCE

- a. During the term of this Contract, the CxA, at its own cost and expense, must procure and maintain the following types of insurance:
 1. Statutory Workers' Compensation, as required by the California Labor Code, and Employer's Liability with limits not less than \$1,000,000 per occurrence; and
 2. Commercial General and Auto Liability insurance, with limits not less than

\$1,000,000 per occurrence/\$2,000,000 aggregate; and

3. Professional liability insurance, with limits of \$1,000,000 per claim.
- b. Prior to the commencement of work, the CxA shall furnish the District with insurance endorsements evidencing the above insurance coverage and further indicating that the CxA's policies have been endorsed to name the "Southwestern Community College District, Its Board of Trustees, and its Program Management Consultant" as an additional insured thereon, with provision made for cross liability. The endorsements shall further provide that the "Consultant's" policy is primary of any insurance carried by the District" and that "the policy will not be canceled or materially changed without thirty (30) days prior notice in writing" being given to the District's Project Manager.
- c. All evidence of insurance coverage required to be submitted in accordance with Section XIII shall be delivered to the addressee for the District specified for services to this program. The District shall make the final determination as to whether the documentation submitted by the CxA conforms to the requirements of Section J.
- d. If any sub consultant(s), subcontractor(s) or independent contractor(s) is utilized by the CxA for the purpose of carrying out portions of this Contract, said subcontractor(s) or other independent contractor(s) shall also be required to comply with the insurance provisions set forth in Section XIII and the indemnification provisions set forth in Agreement for Services.

XIV. WORKER'S COMPENSATION INSURANCE.

The CxA agrees to procure and maintain in full force and effect Worker's Compensation Insurance covering its employees and agents while these persons are participating in the activities hereunder. In the event a claim under the provisions of the California Workers' Compensation Act is filed against District by a bona fide employee of the CxA participating under this Contract, the CxA agrees to defend and hold harmless the District from such claim.

XV. ORIGINALITY.

The CxA agrees that all material produced by the CxA and delivered to Southwestern Community College District hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless the Governing Board from any costs, expenses and damages resulting from any breach of this representation.

XVI. WORKS FOR HIRE.

The CxA understands and agrees that all matters produced under this Contract shall be works for hire and shall become the sole property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.

The CxA consents to use of the CxA's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

XVII. RIGHTS IN DATA.

The CxA grants to the Governing Board the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this Contract.

XVIII. COMPLIANCE WITH APPLICABLE LAWS.

The service completed herein must meet the approval of the District and shall be subject to the District's general right of inspection to secure the satisfactory completion thereof. The CxA agrees to comply with all federal, state and local laws, rules, regulations, and ordinances that are now or may in the future become applicable to the CxA, the CxA's business, equipment and personnel engaged in operations covered by this Contract or accruing out of the performance of such operations.

XIX. PERMITS/LICENSES.

The CxA and all the CxA's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Contract.

XX. NON-WAIVER.

The failure of District or CxA to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Contract shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

XXI. SEVERABILITY.

If any term, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

XXII. ASSIGNMENT.

This Contract is not assignable by the CxA either in whole or in part, nor shall the CxA further contract for the performance of any of its obligations hereunder, without the prior written consent of the Governing Board.

XXIII. LAWS GOVERNING.

This Contract shall be governed by and construed in accordance with the laws of the State of California.

XXIV. ENTIRE AGREEMENT/MODIFICATION.

This Contract and the Attachments hereto contain the entire Agreement of the parties, and no representation, provision, warranty, term, condition, promise, duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Contract shall be binding or enforceable unless in writing and signed by each of the parties.

XXV. NOTICES.

All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if personally served or if sent by registered mail addressed to the parties at their address indicated in this Contract.

This Contract is entered into this XXth day of Month, Year.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date thereof.

FIRM NAME

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

Name: FIRM NAME

Denise Whittaker
Interim Superintendent/President
900 Otay Lakes Road
Chula Vista, CA 91910-7299

SS#/Federal Tax ID: XXXXXXXXXXXX

Telephone: 619 482-6301

Address: XXXXXXXX

Fax: 619 482-6413

City/State/Zip: XXXXXXXX

Telephone: XXXXXXXX

Signature: _____

Fax: XXXXXXXX

Date: _____

Are you a District employee? Yes No

Signature: _____

Date: _____

EXHIBIT A

SCOPE OF SERVICES

- I. The following is a summary of the commissioning process, which the District will implement on the **NAME OF PROJECT**.
 - a. CxA will ensure that the design objectives and intent are clearly documented.
 - b. CxA will assist District and take the necessary steps to create the necessary documentation required for all commissioning review per LEED requirements. This may include enhanced commissioning.
 - c. CxA will perform a focused review of construction documents.
 - d. CxA will develop a Commissioning Plan.
 - e. CxA will conduct a scoping meeting where the commissioning process is reviewed with the commissioning team members. CxA will schedule additional meetings, as necessary, throughout construction, to plan, scope, coordinate, and schedule future activities and resolve problems.
 - f. Implementation and oversight of measurement and verification per LEED.
 - g. Equipment documentation is submitted to the CxA during normal submittals, including detailed start-up procedures.
 - h. CxA works with the contractors/subcontractors in developing start-up plans and start-up documentation formats. The CxA shall provide contractors/subcontractors with pre-functional checklists to be completed during the startup process.
 - i. In general, the checkout and performance verification proceeds from simple to complex; from component level to equipment to systems and intersystem levels, with pre-functional checklists being completed before actual functional testing.
 - j. Subcontractors, under their own direction, execute and document the pre-functional checklists and perform startup and initial checkout. The CxA documents that the checklists and startup were completed according to the approved plans. This shall include the CxA witnessing startup of selected equipment.
 - k. CxA develops specific equipment and system functional performance test procedures.
 - l. The sub contractors review and execute the procedures under the direction of, and documented by the CxA.
 - m. Items of non-compliance are corrected and the system re-tested at the subcontractor's expense.
 - n. The CxA reviews the Operations and Maintenance documentation for completeness.

- o. Commissioning is completed before Substantial Completion.
- p. The CxA reviews, pre-approves and coordinates the training provided by the subcontractors and verifies that it was completed.

The CxA may provide the District with suggested changes and improvements to this process.

II. The primary role of the CxA is to develop and coordinate the execution of a testing plan and observe and document performance, that is, determine whether systems are functioning in accordance with the Contract Documents. The contractors will provide all tools or the use of tools to start checkout, and functionally test equipment and systems, except for specified testing with portable data-loggers, which shall be supplied and installed by the CxA. Specific tasks the CxA shall be responsible for include:

- a. Coordinate and direct the commissioning activities in a logical, sequential and efficient manner using consistent protocols and forms, centralized documentation and clear and regular communications and consultations with all necessary parties.
- b. Develop clear commissioning specifications and the functional testing requirements included in the construction bid documents.
- c. Before startup, gather and review the current control sequences and interlocks, and work with contractors and design engineers until sufficient clarity has been obtained to be able to write detailed testing procedures.
- d. Review contractor submittals applicable to systems being commissioned for compliance with commissioning needs.
- e. Write and distribute pre-functional tests and checklists.
- f. Develop an enhanced start-up and initial systems checkout plan with subcontractors.
- g. Perform site visits, as necessary, to observe component and system installations.
- h. Attend selected planning and job-site meetings to obtain information on construction progress.
- i. Review construction meeting minutes for revisions/substitutions relating to the commissioning process.
- j. Assist in resolving any discrepancies.
- k. Witness all or part of the plumbing and HVAC piping test and flushing procedure, sufficient to be confident that proper procedures were followed.
- l. Document this testing, and include documentation in O&M manuals.
- m. Notify project manger of any deficiencies in results or procedures.

- n. Witness all or part of any ductwork testing and cleaning procedures, sufficient to be confident that proper procedures were followed. Document this testing, and include documentation in O&M manuals. Notify project manger of any deficiencies in results or procedures.
- o. Approve pre-functional tests by reviewing pre-functional checklist reports or by direct site observation.
- p. Approve air and water systems balancing by spot testing and by reviewing completed reports and by selected site observation.
- q. With necessary assistance and review from installing contractors, write the functional performance test procedures for equipment and systems. This may include energy management control system trending, stand-alone data-logger monitoring or manual functional testing. Submit to project manager for review.
- r. Analyze any functional performance trend logs and monitoring data to verify performance.
- s. Coordinate, witness, and approve manual functional performance tests performed by installing contractors. Coordinate re-testing as necessary until satisfactory performance is achieved.
- t. Maintain a master deficiency and resolution log and a separate testing record. Provide to the project manager written progress reports and test results with recommended actions. This must be performed by the CxA in a timely manner as to keep pace with the contractor(s) progress.
- u. Oversee and approve the factory authorized operator-level technicians' training for the District's operating personnel.
- v. Review and approve the preparation of the O&M manuals. CxA shall work with the contractors and design professionals to ensure that verified and approved operation and maintenance manuals are provided to the District in a timely manner.
- w. Provide a final commissioning report, which shall include:
 - 1. An executive summary, list of participants and roles, brief building description, overview of commissioning and testing scope, and a general description of testing and verification methods.
 - 2. For each piece of commissioned equipment, the report should contain the disposition of the CxA regarding the adequacy of the equipment, documentation, and training needed to meet the contract documents in the following areas:
 - Equipment per equipment specifications.
 - Equipment installation.
 - Functional performance and efficiency.
 - Equipment documentation and design intent.

- Operator training. All outstanding non-compliance items shall be specifically listed.
3. Recommendations for improvement to equipment or operations, future actions, commissioning process changes, etc. shall also be listed. Each non-compliance issue shall be referenced to the specific functional test, inspection, trend log, etc. where the deficiency is documented.
- x. The functional performance and efficiency section, for each piece of equipment, shall include a brief description of the verification method used (e.g. manual testing, BAS trend logs, data loggers, etc.) including observations and conclusions from the testing.
 1. Appendices shall contain acquired sequence documentation, logs, meeting minutes, progress reports, deficiency lists, site visit reports, findings, unresolved issues, communications, etc. Pre-functional checklists and functional tests, along with blanks for the operators, and monitoring data and analysis will be provided in a separate labeled binder.
 - y. Develop a Systems and Concepts Manual that consists of the design narrative (design intent, design concept descriptions, design basis and systems description), space and use descriptions, single line drawings and schematics for major systems, control drawings, sequences of control, table of all set points and implications when changing them, schedules, instructions for operation of each piece of equipment for emergencies, seasonal adjustment, startup and shutdown, instructions for energy savings operations and descriptions of the energy savings strategies in the facility, recommendations for re-commissioning frequency by equipment type, energy tracking recommendations, and recommended standard trend logs with a brief description of what to look for in them.
 - z. During the warranty period, coordinate and supervise required seasonal or deferred testing and deficiency corrections and provide the final testing documentation for the commissioning and deficiency corrections and O&M manuals. Two months before warranty expiration date review with facility staff the building operation and condition of outstanding issues related to the original seasonal commissioning.
 - aa. Obtain contractors' maintenance procedures and documentation performed during the warranty period.

The CxA is not responsible for design concept, design criteria, compliance with codes, design or general construction scheduling, cost estimating, or construction management. The CxA may assist with problem-solving or resolving non-conformance or deficiencies, but ultimately that responsibility resides with the construction manager, general contractor, or prime contractor and the A/E.

BASIS OF DESIGN and OWNER PROJECT REQUIREMENT ON YOUR JOB...IF NO MAY REQUEST TO CxA TO PERFORM/ASSIST WTH THIS WORK...WRITE INTO SCOPE.

III. Systems Which Shall be Commissioned **(Selected on a Project by Project Basis):**

- a. The following systems, including all components and controls, may be commissioned (selected on a project by project basis):

1. Central building automation systems
2. All equipment of the heating, ventilating and air conditioning systems
3. Scheduled or occupancy sensor lighting controls
4. Daylight dimming controls
5. Uninterruptible power supply systems
6. Life safety systems (fire alarm, egress pressurization, fire protection)
7. Laboratory, hoods and pressurization
8. Electrical
9. Domestic water systems
10. Data & communication
11. Security systems
12. Irrigation
13. Plumbing
14. Vertical transportation
15. Building envelope
16. Lighting systems
17. Kitchen equipment
18. Domestic boilers including hot water system and recirculation

IV. The following outlines the level of effort expected for each commissioned system:

- a. The CxA shall review the design documentation (design intent, basis of design and sequences of operation) for completeness. The CxA shall develop pre-functional checklists for the installing contractors to include in their startup and initial checkout. The CxA shall develop detailed written test procedures for guiding and documenting performance during functional testing.
- b. The functional testing shall include operating the system and components through each of the written sequences of operation, and other significant modes and sequences, including startup, shutdown, unoccupied mode, manual mode, staging, miscellaneous alarms, power failure, security alarm when impacted and interlocks with other systems or equipment. Sensors and actuators shall be calibrated during pre-functional check listing by the installing contractors, and spot-checked by the CxA during functional testing.
- c. Tests on respective HVAC equipment shall be executed, if possible, during both the heating and cooling season. However, some overwriting of control values to simulate seasonal conditions shall be allowed. The central plant shall have its efficiency benchmarked for later use by operations staff. Functional testing shall be done using conventional manual methods, control system trend logs, and read-outs or stand-alone data loggers, to provide a high level of confidence in proper system function, as deemed appropriate by the CxA and the District.
- d. CxA to verify that isolation valves are installed per plans and specifications.

- e. CxA to verify circuit breaker designations and labeling.
- f. CxA to verify equipment designations and labeling.
- g. CxA to assist with other LEED requirements as may be determined necessary by the District.

END OF EXHIBIT A

EXHIBIT B

INSERT CxA PROPOSAL