

IMPERIAL COMMUNITY COLLEGE DISTRICT

**REQUEST FOR QUALIFICATIONS AND PROPOSALS FOR MECHANICAL
ENGINEERING AND RELATED DESIGN PROFESSIONAL SERVICES FOR
BUILDING 1500 HVAC REPLACEMENT
RFQ No. 20-21-07**

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**IMPERIAL COMMUNITY COLLEGE DISTRICT
REQUEST FOR QUALIFICATIONS FOR MECHANICAL ENGINEERING
AND RELATED DESIGN PROFESSIONAL SERVICES FOR
BUILDING 1500 HVAC REPLACEMENT PROJECT
RFQ No. 20-21-07**

Imperial Community College District (“District”) requests that mechanical engineering services firms (“Respondents”) submit written responses to this RFQ for mechanical engineering services for the Project.

1. Request for Qualifications

1.1. General.

1.1.1. Purpose of RFQ. This RFQ is a part of the process for the District’s selection of a mechanical engineering services firm to provide design and related services for the Building 1500 HVAC Replacement (“Project”). Timely submitted RFQ Responses will be evaluated by a Selection Committee. The Selection Committee will score timely submitted RFQ Responses and will recommend that the Board of Trustees award of the Engineering Services Agreement to the Respondent submitting the highest scored RFQ Response. The foregoing notwithstanding, the Selection Committee may recommend that the Board of Trustees award the Engineering Services Agreement to a Respondent who did not submit the highest scored RFQ Response provided that such recommendation is accompanied by a statement establishing the basis for the Selection Committee’s exercise of discretion to recommend award of the Engineering Services Agreement to a Respondent who did not submit the highest scored RFQ Response.

1.1.2. Obtaining RFQ. This RFQ may be obtained from the District by contacting the District’s Program Manager whose contact information is noted herein. The RFQ is also available on line at <https://www.imperial.edu/about/request-for-proposals/>

1.2. District RFQ Contacts. Questions or other communications relating to this RFQ shall be directed to the District at:

Imperial Community College District
Joseph Jackson, Program Manager
Construction-facilities@imperial.edu
760-355-6427

1.3. District Modifications to RFQ. The District expressly reserves the right to modify any portion of this RFQ prior to the latest date/time for submission of RFQ Responses, including without limitation, the cancellation of this RFQ. Modifications, if any, made by the District to the RFQ will be in writing; potential Respondents who have obtained this RFQ from the District prior to any such modifications will be issued modifications to the RFQ by written addenda.

1.4. No Oral Clarifications/Modifications. The District will not provide any oral clarifications or modifications to the RFQ or the requirements hereof; no employee, officer, agent or representative of the District is authorized to provide oral clarifications or modifications to the RFQ. No Respondent shall rely on any oral clarification or modification to the RFQ.

1.5. Public Records. Except for materials deemed Trade Secrets (as defined in California Civil Code §3426.1) and materials specifically marked “Confidential” or “Proprietary,” all materials submitted in response to this RFQ are deemed property of the District and public records upon submission to the District. Financial statements are not subject to disclosure under the Public Records Act. The foregoing notwithstanding, the District may reject for non-responsiveness the RFQ Response of a Respondent who indiscriminately notes that its RFQ Response or portions thereof are “Trade Secret” “Confidential” or “Proprietary” and exempt from disclosure as a public record. The District is not liable or responsible for the disclosure of RFQ Responses, or portions thereof, deemed to

be public records, including those exempt from disclosure if disclosure is by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its agents or representatives. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosures of the contents of any portion of a RFQ Response deemed exempt from disclosure hereunder, by submitting a response to this RFQ, each Respondent agrees to defend, indemnify and hold harmless the District in any action or proceeding from and against any liability, including without limitation attorneys' fees arising therefrom. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

- 1.6. Errors/Discrepancies/Clarifications to RFQ. If a Respondent encounters errors or discrepancies in this RFQ or portions hereof, the Respondent shall immediately notify the District of such error or discrepancy. Any Respondent seeking clarification of any portion of this RFQ shall submit the requested clarification in writing to the District. Responses of the District to any requested clarification will be in writing; if in the sole judgment of the District, any clarification response affects the RFQ or other Respondents, the District will issue the clarification response by a written addendum distributed to all potential Respondents who have theretofore obtained this RFQ from the District. All requests for clarification of this RFQ must be submitted and actually received by the District no later than the date/time indicated in Paragraph 4.1; the District will not respond to clarification requests submitted thereafter. All communications to the District shall be as set forth in Paragraph 1.2 above.
- 1.7. RFQ Response Costs. All costs and expenses incurred by a Respondent to prepare and submit a response to this RFQ shall be borne solely and exclusively by the Respondent.
2. Project. Building 1500 on the Imperial Valley College campus serves as the Library Media Center/Student Health Center. The Respondent selected through this RFQ will prepare Bidding and Construction Documents for DSA approval for replacement of the existing HVAC equipment serving Building 1500 and provide construction phase services during installation of the replacement HVAC Equipment. The following generally describes the Project scope.
- 2.1. Mechanical and Plumbing Systems Demolition.
- Remove/demolish existing exterior chilled water piping between chiller and building.
 - Remove and cap in place existing chilled water and heating hot water piping in mechanical closets.
 - Remove all existing pipe supports not reused with new refrigerant piping.
- 2.2. Replacement Mechanical Equipment. Installation of replacement mechanical equipment, piping, controls and adaption of existing ductwork for compatibility with replacement equipment.
- Four (4) 20T, large capacity, VRF heat pump, outdoor condensing units.
 - Four (4) low ambient control kits.
 - Four (4) 32T electronic expansion valve kits.
 - Three (3) 2-inch double wall custom air handlers with access doors and reinforced handles
 - EC fans
 - Flow measurement rings
 - Direct expansion cooling coils with factory mounted expansion valve for refrigerant flow control and drain pans.
- 2.3. Condensate Drainage. Primary and secondary AC condensate drained systems shall be equipped with water level monitoring device to shut down the cooling and activate the alarm through the building management system in the event of a condensate drainage failure event.

- 2.4. Controls. New mechanical controls equipment and systems that are direct digital control (DDC) systems, central computer workstation for monitoring HVAC, lighting and other systems through sensors. The DDC system shall be compatible with BACnet and match District campus standards.
- 2.5. Plumbing. New refrigerant piping, with required seismic support and 1" closed cell insulation. Exterior refrigerant piping shall be wrapped with stucco embossed aluminum jacketing.
- 2.6. Ductwork and Dampers. At AHUs 1, 2 and 3, new galvanized steel supply, return and outside air duct transition. Ten (10) new control dampers for supply, return and outside air duct as applicable.
- 2.7. Provide new electrical components to support new condensing units, air handlers and controls system, including new disconnects.

- Fuses
- Conduit
- Distribution blocks
- Supports and bracing
- Miscellaneous appurtenances

3. RFQ Response

3.1. RFQ Activities; Timeline. The following is a description of the principal activities to be completed under this RFQ and the timeline for completion of each activity. The following notwithstanding, the District expressly reserves the right to amend the extent, nature or scope of RFQ activities and/or the timeline for commencing/completing RFQ activities.

Activity	Completion Date
Mandatory pre-proposal conference	Wednesday, September 09, 2020 10:00 AM
Last day for submittal of RFQ questions	Wednesday, September 16, 2020 4:00 PM
Responses to RFQ Questions issued	Friday, September 18, 2020
Latest date and time for submittal of RFQ Proposals	Friday, September 25, 2020 2:00 PM
Interviews, if conducted	Monday, September 28, 2020 to Monday, September 28, 2020
Board action to award Engineering Services Agreement	Wednesday, October 21, 2020

3.2. Submission of RFQ Responses.

3.2.1. Latest Date/Time for Submission of RFQ Response. **The latest date/time for submission of RFQ Responses is set forth in Paragraph 3.1.** RFQ Responses which are not actually received in the office of the District's Business Office, or by email, at or prior to the latest date/time for submission of RFQ Responses will be rejected by the District for non-responsiveness. Respondents are solely responsible for the timely submission of RFQ Responses. Respondents are advised that the District utilizes a centralized mailroom for the receipt of items transmitted by United States Mail and private courier services, including FedEx, California Overnight, DHL, etc. Items received in the centralized mailroom will be distributed to the intended recipients only as part of the mailroom's daily delivery routine. A response to this RFQ which is received in the District's central mailroom will not be deemed received by the office of the District's Business Office until delivery of such item is effectuated to the office of the District's Business Office. Accordingly, Respondents are encouraged to personally, or electronically, delivery RFQ Responses directly to the office of the District's Business Office or to retain a private service to personally deliver RFQ Responses to the Business Office.

3.2.2. Location for Submission of RFQ Response. RFQ Responses shall be enclosed and sealed in an envelope with the exterior prominently marked to identify this RFQ and the name of the Respondent. Respondents are advised that the District utilizes a central mailroom for receipt of items delivered by United States Postal Service and courier services (FedEx, DHL, etc.). RFQ Responses delivered to the District central mailroom are not deemed delivered to the District until delivery of a RFP Response by central mailroom personnel to the location identified below is completed. Respondents are encouraged to utilize a messenger service for personal delivery of RFQ Responses. RFQ Responses shall be submitted to the District at the location described below or by email at the email address described below:

Imperial Community College District
Attn: Joseph Jackson, Program Manager
Business Office - Building 10, Room #16
380 E. Aten Road
Imperial, CA 92251
Construction-facilities@imperial.edu

3.3. RFQ Response Contents/Format.

3.3.1. RFQ Response. All materials submitted in response to this RFQ shall be on 8 ½" x 11" paper, preferably in portrait orientation, 12 point (or larger) Arial, Calibri or Times New Roman font with 1" page margins on all sides. Mistakes may be crossed out and corrections made adjacent, however, each correction must be initialed by the person signing the Statement of Qualification/Proposal. All submitted materials must be bound in either a three-ring binder or spiral bound notebook. Tabbed dividers should be used to identify and separate discrete sections of the RFQ Response which correspond to the RFQ Response Format described in Paragraph 4.4 below. Responses via email should be in the same order as described above.

3.3.2. Additional Materials. Respondents are not prohibited but are discouraged, from submitting materials in addition to those specifically responding to the matters noted in Paragraph 4.4 below. If a Respondent elects to submit materials with its RFQ Response which are in addition to the matters described in Paragraph 4.4 below, the Respondent shall separately bind all such additional materials from the RFQ Response addressing the matters set forth in Paragraph 4.4.

3.3.3. Copies of RFQ Response. Each Respondent shall submit one (1) electronic copy by email **or** one (1) complete electronic version on a flash drive and three (3) copies of their respective RFQ Responses.

3.4. RFQ Response Format/Contents. Each RFQ Response must conform to the following described format and must include the content described below. Failure of a Respondent to submit its RFQ Response in a format and with content conforming to the following requirements will be a basis for the District's rejection of such RFQ Response for non-responsiveness.

3.4.1. Cover Sheet. Identify the submittal as the Response to this RFQ and an identification of the firm submitting the RFQ Response along with the firm's address, telephone/fax numbers and email addresses of the firm's principal contacts in connection with this RFQ or the RFQ Response.

3.4.2. Letter of Interest. Include a brief letter expressing the interest of the Respondent in providing mechanical engineering services for the Project and a brief statement of the qualifications of the Respondent to provide the requested mechanical engineering I services. Provide contact information, including the telephone number, fax number and email address for the personnel of the Respondent who will be receiving notices and other communications from the District regarding the RFQ. The letter of interest should be bound with other materials responding to this RFQ.

3.4.3. Table of Contents. Include a Table of Contents reflecting each of the following sections of the RFQ Response:

Tab 1; Statement of Qualifications. Complete the Statement of Qualifications attached as Attachment A to this RFQ for the Respondent.

Tab 2; Relevant Project Experience. Provide additional details of the Projects identified in the Statement of Qualifications which reflect the skills, experience and other qualifications of the Respondent and its proposed Design Consultants, if any, for the Project to successfully complete necessary mechanical engineering services for the Project. Include in the discussion of relevant project experience, the experience of the Respondent and its proposed Design Consultants for the following: (i) conformity to schedule and budget requirements; (ii) California community college projects; (iii) HVAC retrofit/replacement projects. This section of the RFQ Response shall not exceed fifteen (15) pages.

Tab 3; Proposed Project Team. Identify the key members of the Respondents' staff that will be assigned to design, bidding or construction phases of the Project. Identify the Respondents' proposed Design Consultants, if any, for the following design disciplines, if necessary: structural, mechanical, electrical, and plumbing; for each Design Consultant identified by the Respondent, identify the key members of the Design Consultants' staff that will be assigned to the design, bidding or construction phases of the Project. For each member of the Respondents' organization and for each member of Design Consultants identified, provide brief descriptions of the relevant qualifications and background. Do not include resumes for the proposed personnel of the Respondent and its proposed Design Consultants; personnel resumes are to be bound and incorporated into Tab 5 (Personnel Resumes) section of the RFQ Response. Include an organization chart illustrating the relationships: (i) among the Respondent's proposed Project Team; and (ii) between the proposed Project Team and the District.

Tab 4; Project Personnel Resumes. Provide a current resume for each member of the Respondent's personnel and for each member of the personnel of each Design Consultant identified in Tab 3, Proposed Project Team.

Tab 5; Project Approach. Provide a description of the proposed Project Team's approach and methodology to completing tasks necessary to complete the Basic Services set forth in the Engineering Services Agreement. Include a detailed description and discussion of measures the Respondent utilizes for quality assurance and quality control of Design Documents to minimize errors or omissions and to complete construction of the Projects within the District's schedule and budget.

Tab 6; Insurance Certificates. Provide copies of Certificates of Insurance for the Respondent. Required Certificates of Insurance and minimum coverage amounts for each policy of insurance are as set forth below. The District reserves the right to modify the minimum coverage limits for each policy of insurance on a project-by-project basis.

Insurance Policy	Minimum Coverage Limits
Workers Compensation	In accordance with law
Employers Liability	One Million Dollars (\$1,000,000)
Comprehensive General Liability (including property damage and automobile liability)	One Million Dollars (\$1,000,000) per Occurrence/Two Million Dollars (\$2,000,000) aggregate
Professional Liability	One Million Dollars (\$1,000,000) per claim/Two Million Dollars (\$2,000,000) aggregate

Tab 7; Engineering Services Agreement Comments. Included with this RFQ as Attachment B is the Engineering Services Agreement. Respondents must thoroughly review the

Engineering Services Agreement and must in their respective RFQ Responses identify any term or condition of the Engineering Services Agreement which the Respondent requests modification, by amendment to existing provisions, addition of additional provisions or deletion of existing provisions. Where any requested modification consists of amendments to existing provisions or additional provisions, the response to this RFQ must set forth the text of the requested amendment or addition. Any Respondent whose RFQ Response does not identify modifications to terms or conditions of the attached Engineering Services Agreement will be deemed to have agreed to all terms and conditions set forth therein.

Tab 8; Proposal. Complete the form of Proposal (RFQ, Attachment C). The District prefers fee proposals which are fixed price or a proposed basis of computing fees to the Respondent which can be readily converted into a fixed price. Include in the Proposal a detailed listing of the current hourly billing rates for the personnel of the Respondent and the personnel of each Design Consultant identified in response to this RFQ.

4. RFQ Evaluations.

4.1. General. Timely submitted RFQ Responses will be independently reviewed by each member of the Selection Committee. A Response to the RFQ which does not comply with the requirements of this RFQ will be subject to rejection for non-responsiveness. The District may waive minor irregularities in RFQ Responses.

4.2. District Policy. It is the policy of the District that the selection of firms to provide professional services in connection with construction projects of the District be based on the demonstrated competence and qualifications to complete the required professional services at a fair and reasonable price to the District.

4.3. Evaluation Criteria. The following set forth the criteria by which each RFQ Response will be evaluated and the relative weight of each evaluation criteria out of 100 points.

4.3.1. Relevant Experience and Ability (25 points). The Respondent and its proposed Project team (along with personnel of the Respondent and proposed Design Consultants) will be evaluated based on experience as mechanical engineers for recent projects similar in size, scope, use and complexity as the Project subject to this RFQ.

4.3.2. Design Ability (15 points). The ability and commitment of the Respondent and its proposed Project team to develop and implement high-quality, functional, cost-effective and aesthetically attractive designs for similar or comparable projects to the Project.

4.3.3. Responsiveness to RFQ (10 points). The District will evaluate the Respondent's responsiveness to the requirements of this RFQ.

4.3.4. Client Responsiveness (25 points). The District will evaluate the prior experience and success of the Respondent and its proposed Project team to establish effective working relationships within the setting of higher education institutions, including the relationships with management, administrative, technical and end-user staff of prior clients, relationships with other project consultants and participants on prior projects.

4.3.5. Availability (10 points). The District will evaluate the availability of the Respondent, its proposed Design Consultants the personnel of the Respondent and its proposed Design Consultants to be dedicated to the Project within the District's anticipated schedule. This evaluation will include the demonstrated ability and willingness of the Respondent and its proposed Design Consultants to promptly provide and complete services, whether from a location in close proximity to the District or otherwise.

4.3.6. Pricing Proposal (15 points). The District will evaluate each Respondent's proposed methodology to establish the Contract Price due the Respondent for the Project for reasonableness of approach and reasonableness of costs by application of the proposed

pricing methodology.

- 4.4. Award of Engineering Services Agreement. Upon completing review of timely submitted RFQ Responses, the Selection Committee will make recommendations to the District's Board of Trustees for the award of the Engineering Services Agreement. Notwithstanding any recommendations of the Selection Committee, action to award Engineering Services Agreement is vested solely in the Board of Trustees.

[END OF SECTION]

**QUALIFICATIONS STATEMENT
(RFQ Attachment A)**

This Qualifications Statement must be completed by each Respondent and executed by an authorized employee of the Respondent. Failure of a Respondent to submit the completed and executed Qualifications Statement concurrently with the Respondent’s RFQ Response will render the RFQ Response non-responsive and rejected.

1. Respondent Information

1.1. Respondent Name. _____

1.2. Form of Entity. Check appropriate box.

- | | |
|--|--|
| <p><input type="checkbox"/> Corporation _____
(State of Incorporation & Corporate Registration No.)</p> <p><input type="checkbox"/> Partnership _____
(Describe type of partnership i.e., general partnership, limited partnership)</p> <p><input type="checkbox"/> Limited Liability Company</p> | <p><input type="checkbox"/> Limited Liability Partnership</p> <p><input type="checkbox"/> Joint Venture _____
(Identify each member of Joint Venture and form of entity of each Joint Venturer)</p> <p><input type="checkbox"/> Sole Proprietorship</p> |
|--|--|

1.3. Contact Person.

Name	
Street Address/City/State	
Phone/Fax	
Email Address	

1.4. Years In Business. The Respondent has provided mechanical engineering design professional services under Respondent’s current trade/business name. _____

1.5. Prior Trade/Business Name. Has the Respondent, in the prior ten (10) years conducted business under a trade name or business name that is different than the Respondent’s current trade/business name?

- Yes
 No

If “Yes” identify all prior trade/business names used by Respondent in the prior ten (10) years: _____.

1.6. California Licensed Engineers. The following employees, officers, principals or equity owners of the Respondent who are California licensed engineers:

Name	Engineer License No.

2. Prior Experience. Provide a summary of engineering services provided by the Respondent to a

California community college district and/or a California K-12 public school district within the past five (5) years for: (i) facilities scheduled and deferred maintenance; (ii) building equipment/systems repairs; (iii) facilities renovations/modernizations; and (iv) capital improvements. Provide the summaries in the format set forth below. Attach additional summaries as necessary and identify each additional summary by sequential "Assignment No." numbering.

ASSIGNMENT NO. 1	
Client name	
Project description	
General description of mechanical engineering services completed	
Dates of Mechanical Engineering Services (beginning and end dates)	
Approximate dollar value of Mechanical Engineering Services	
Client Contact Person	Name: _____ Position/Title _____ Address _____ _____ Phone/Fax _____ Email _____

ASSIGNMENT NO. 2	
Client name	
Project description	
General description of mechanical engineering services completed	
Dates of Mechanical Engineering Services (beginning and end dates)	
Approximate dollar value of Mechanical Engineering Services	
Client Contact Person	Name: _____ Position/Title _____ Address _____ _____ Phone/Fax _____ Email _____

3. Essential Minimum Qualifications. Any response of a Respondent indicating “not qualified” to the following minimum qualifications criteria will result in rejection of the Respondent’s RFQ Response for failure to meet minimum qualifications criteria.

3.1. Respondent has a current Commercial General Liability policy of insurance with coverage limits of at least One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate.

- Yes
- No (not qualified)

3.2. Respondent has a current professional liability policy of insurance with coverage limits of at least One Million Dollars (\$1,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate.

- Yes
- No (not qualified)

3.3. Respondent has obtained a current Workers Compensation policy of insurance with coverage limits in accordance with applicable law.

- Yes
- No (not qualified)

3.4. Respondent is ineligible for award of public works contracts pursuant to Labor Code §1777.1 or 1777.7.

- Yes (not qualified)
- No

3.5. Has any public agency, within the past ten (10) years conducted proceedings that resulted in a finding that the Respondent or any predecessor to the Respondent is not a “responsible” bidder for a public works project or a public works contract?

- Yes (not qualified)
- No

3.6. At any time during the last ten (10) years, has Respondent or any predecessor to the Respondent been convicted of a crime involving any federal, state, or local law related to a private or public construction project?

- Yes (not qualified)
- No

3.7. At any time during the last ten (10) years, has the Respondent or any predecessor to the Respondent been convicted of a federal or state crime involving fraud, theft, or any other act of dishonesty?

- Yes (not qualified)
- No

3.8. Within the past ten (10) years, one or more contract(s) to provide work, labor, materials or services to which the Respondent was a party to have been terminated for default of the Respondent.

- Yes (not qualified)
- No

4. Claims and Disputes.

4.1. Respondent Reported Claims. Within the past ten (10) years, has the Respondent or its predecessor(s) reported to the Board for Professional Engineers, Land Surveyors, and Geologists

("Engineer Board") any civil action settlement or administrative action resulting in a settlement against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of professional engineering if the amount or value of the settlement is greater than fifty thousand dollars (\$50,000) or any civil action judgment, settlement, or binding arbitration award, or administrative action resulting in a judgment, settlement, or binding arbitration award against the licensee in any action alleging fraud, deceit, misrepresentation, breach or violation of contract, negligence, incompetence, or recklessness by the licensee in the practice of professional engineering if the amount or value of the judgment, settlement, or binding arbitration award is twenty-five thousand dollars (\$25,000) or greater, as required by California Business & Professions Code §6770(a)(3) and (4)?

Yes

No

If "Yes" on a separate attachment, provide details of: (i) the title of the matter; (ii) the court or agency name; (iii) docket number; (iv) the claim or file number; (v) date on which the reportable event occurred; (vi) judgment, settlement or arbitration award.

1.1. Professional Liability Insurer Reported Claims. Within the past ten (10) years, has any professional liability insurer for the Respondent reported to the Engineer Board payment by the professional liability insurer of any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award against the Respondent or the Respondent's predecessor, as required by California Business & Professions Code §6770.1?

Yes

No

If "Yes" on a separate attachment, provide details of: (i) amount of judgment, settlement or arbitration award; and (ii) amount paid by professional liability insurer.

4.2. Pending Professional Liability Claims and Disputes. The Respondent is presently engaged in a claim, dispute or disagreement which asserts the professional negligence or professional liability of Respondent or any Design Consultant to Respondent in connection with mechanical engineering or design professional services provided by or through Respondent for any public or private work of improvement.

Yes

No

If "Yes" provide details, including without limitation: (i) the title of the matter; (ii) the court or agency name; (iii) docket number; (iv) the claim or file number; (v) amount in controversy; (vi) contact information (name, address, phone and email address) for each party pursuing a pending claim against the Respondent.

4.3. Pending Payment Claims and Disputes. The Respondent is presently engaged in a claim, dispute or other disagreement relating to or arising out of a private or public contract for mechanical engineering or design professional services in which the Respondent is seeking additional compensation.

Yes

No

If "Yes" on a separate attachment, provide details of each such pending claim, dispute or other disagreement.

The undersigned is duly authorized to execute this Qualifications Statement under penalty of perjury on behalf of the above-identified Respondent. The undersigned warrants and represents that he/she has personal knowledge of each of the responses to this Qualifications Statement and/or that he/she has

conducted all necessary and appropriate inquiries to determine the truth, completeness and accuracy of responses to this Qualifications Statement. The undersigned declares and certifies that the responses to this Qualifications Statement are complete and accurate; there are no omissions of material fact or information that would render any response to be false or misleading and there are no misstatements of fact in any of the responses. The above-identified Respondent acknowledges and agrees that if the District determines that any response herein is false or misleading or contains misstatements of fact, the Response shall be deemed non-responsive and the Respondent will not further participate in the RFQ process.

Executed this ___ day of _____ 20__ at _____
(City and State)

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

(Signature)

(Name and Title)

AGREEMENT FOR ENGINEERING SERVICES

This Agreement for On-Going Engineering Services (“Agreement”) is entered into effect on [Click here to enter a date.](#) by and between **IMPERIAL COMMUNITY COLLEGE DISTRICT**, a California Community College District (“District”) and _____ (“Engineer”); the District and the Engineer are collectively referred to herein as “the Parties.” This Agreement is entered into with reference to the following Recitals, all of which are incorporated herein by this reference.

WHEREAS, the existing HVAC equipment and related apparatus serving Building 1500 on the District’s Imperial Valley College campus require replacement.

WHEREAS, the District issued a Request for Qualifications (“RFQ”) pursuant to which the District solicited proposals from Engineering services firms to provide Engineering services for preparation of Design Documents for replacement of the Building 1500 HVAC equipment and related apparatus (“the Project”).

WHEREAS, the Engineer submitted a written response to the RFQ (“the RFQ Response”); by this reference, the RFQ and the RFQ Response are incorporated into this Agreement.

WHEREAS, the District desires to retain Engineer to provide and perform engineering and related services in connection with the design, bidding and construction of the Project.

WHEREAS, Engineer is qualified and capable of providing and performing the services and its other obligations under this Agreement in accordance with the terms hereof.

WHEREAS, as required by the Laws and/or the nature of services provided, personnel of the Engineer are duly registered as engineers under the laws of the State of California; all such personnel are qualified, experienced and capable of completing the Basic Services tasks assigned them for the Project.

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

1. Basic Services

1.1. General. Engineer shall provide Basic Services and authorized Additional Services for the Project as more particularly enumerated in this Agreement. All Basic Services and authorized Additional Services for the Project shall be performed and completed by employees of the Engineer. Engineer’s services shall be performed or provided consistent with professional skill and care and in such a manner as to avoid hindrance, interruption or delay to the orderly progress and completion of the design, bidding and construction of the Project.

1.2. Relationship of Engineer to Other Project Participants. The Engineer’s services hereunder shall be provided in conjunction with contracts between the District and other Project participants including the Contractor, the Construction Manager, if one is retained by the District for the Project. The Engineer’s services and the Design Documents prepared by or through the Engineer for the Project shall conform to processes, procedures and standards established by the District and/or processes, procedures and standards established by the District for the Project. The Contractor awarded the Construction Contract for the Project is responsible for performance of its obligations under the Construction Contract. Engineer’s services hereunder shall not be deemed or construed to be Engineer’s assumption of responsibility for, or control over construction means, methods sequences or procedures, or for safety during construction of the Project, all of which are and remain the responsibility of the Contractor.

1.3. Engineer Independent Contractor Status. The Engineer is an independent contractor to the District. The express terms hereof set forth the limited extent to which Engineer is authorized to act on behalf of the District in its independent contractor capacity. The Engineer shall be liable for the consequences of Engineer’s actions or conduct which exceeds the express limited scope of Engineer’s authority to act on behalf of the District as set forth herein.

- 1.4. Engineer Standard of Care. Engineer shall provide the Basic Services and authorized Additional Services for the Project: (i) using its best professional skill and judgment; (ii) acting with due care and in accordance with respective applicable standards of care under California law for those providing similar services for projects of the size, scope and complexity of the Project; (iii) the terms of this Agreement; and (iv) in accordance with applicable standards of care regarding application and interpretation of applicable law, code, rule or regulation at the time services are rendered. Neither the Engineer nor its respective employees shall engage in any conduct or activity, accept any employment or compensation which actually or reasonably appears to compromise the Engineer's obligations to the District under this Agreement.
- 1.5. Engineer Representation. The Engineer shall designate a Project Engineer and/or Job Captain for all Phases of Basic Services for the Project. Unless approved by the District for the Project, the Project Engineer or Job Captain designated by the Engineer for the Project shall be the same for all Phases of Basic Services for the Project. The Engineer's Project Engineer and/or Job Captain shall: (i) be reasonably satisfactory to the District; (ii) will not be replaced without approval of the District; (iii) shall have the overall responsibility for performance of Engineer's obligations hereunder; and (iv) be authorized to act on behalf of the Engineer in discharge of Engineer's services hereunder. If the Project Engineer or Job Captain designated by the Engineer for the Project is replaced, the District shall have the right to approve of the replacement Project Engineer or Job Captain for the Project. During the Construction Phase of the Project, the Project Engineer and/or Job Captain shall be readily available to communicate by telephone, correspondence, necessary Site visits, e-mail or other means of communication to provide design direction and decisions as necessary to avoid delay, hindrance or interruption to construction of the Project.
- 1.6. Compliance with Regulatory Agencies. The Engineer shall respond to and comply with all requests relating to the Project made by any federal, state, regional or local governmental or quasi-governmental agency with jurisdiction over any portion of the Project.
- 1.7. Meetings. The Engineer, as necessary, appropriate or requested by the District, shall attend and participate in meetings, forums and other conferences ("Meetings") relating to the design, bidding or construction of the Project. Without limiting the generality of the foregoing, the Engineer shall attend and participate in Meetings with the Construction Manager, District, end-user groups, shared governance councils/committees, Board of Trustees and organized public forums relating to the Project. The Engineer shall promptly respond to matters assigned to or designated for response, review or other action by the Engineer. If requested by the District, the Engineer shall prepare and distribute minutes of Meetings relating to the Project.
- 1.8. Existing Conditions Investigation. The Engineer shall inspect the Site of the Project to ascertain existing conditions, facilities or other improvements on or about the Site of the Project as necessary to produce complete and accurate Design Documents for the Project. The Engineer shall review any materials provided to the Engineer by or through the District relating to the as-built and existing condition of the improvements on or about the Site. The Engineer shall promptly notify the District and Construction Manager in writing of discrepancies encountered between the existing conditions observed by the Engineer and the materials provided by or through the District.
- 1.9. Obligation to Design Within Construction Budget. A material obligation of the Engineer under this Agreement is the Engineer's development and preparation of Design Documents for the Project that can be constructed (under the then current marketplace conditions) within the Construction Budget established by the District for the Project. Design Documents for the Project shall include features, elements, components or other items which may be added to or deleted from the scope of the Project without impairing the size, intended uses, functions or occupancy of the Project ("Design Alternatives"). The election to incorporate any Design Alternatives into

the Project shall be solely that of the District. Basic Services of the Engineer include incorporation of District selected Design Alternatives into the Design Documents for the Project.

1.10. Conformity to District Standards. Design Documents shall conform to District standards for materials, equipment and/or workmanship.

1.11. Compliance with Regulatory Agencies. The Engineer shall respond to and comply with all requests relating to the Project made by any federal, state, regional or local governmental or quasi-governmental agency with jurisdiction over any portion of the Project (“Regulatory Agencies”). All of the Engineer’s verbal communications with Regulatory Agencies shall be reduced to writing. The Engineer shall copy the District with all written communications received from any of the Regulatory Agencies relating to the Project or generated by the Engineer to any Regulatory Agency relating to the Project. The Engineer shall be responsible and liable to the District for all consequences of the Engineer’s failure or refusal to timely, completely and accurately respond to any communications or requests from/by/between Regulatory Agencies relating to the Project.

2. Basic Services; Pre-Design Phase.

2.1. General. The Engineer shall review the Construction Budget and other information provided by the District regarding the Project to ascertain the requirements and constraints of the Project.

2.2. Site Observations. The Engineer shall visit the Site of the Project to become familiar with physical conditions and existing improvements at the Site as they relate to design of the Project. The Site observations of the Engineer do not include observations of concealed conditions. The foregoing notwithstanding, by conducting Site observations, the Engineer is responsible for noting and incorporating patently observable existing Site conditions into the Project Design Documents. If the Project involves any existing improvements, the Engineer shall review and verify the accuracy of any materials provided to the Engineer by or through the District relating to the as-built and existing condition of the improvements on or about the Site. The Engineer shall promptly notify the District in writing of discrepancies encountered between the existing conditions observed by the Engineer and the materials provided by or through the District; failure of the Engineer to do so shall result in the Engineer’s assumption of responsibility for correcting discrepancies between actual conditions and those described in the District-provided materials and incorporating the actual conditions into Design Documents for the Project without adjustment of the Contract Price are the Engineer for the Project.

3. Basic Services; Preliminary Plans Phase.

3.1. Preliminary Plans. The Engineer shall prepare Preliminary Plans consisting of Drawings and other documents illustrating scale and other relationships of the various components of the Work and an outline of Specifications. Preliminary Plans shall include without limitation: (i) a general description of the Project; (ii) conceptual site plan; (iii) preliminary building plans; (iv) sections and elevations; (v) perspective sketches; and (vi) other documents requested by the District relating to the preliminary design of the Project. Upon completion of the Preliminary Plans, the Engineer shall submit the same to the District for information, review and comments.

3.2. Final Preliminary Plans. The District, the Construction Manager and Engineer will confer and consult with each other to arrive at mutual understandings and agreements as to which of the comments of the District and the Construction Manager to the Initial Preliminary Plans are to be incorporated into the Final Preliminary Plans. The Engineer shall prepare Final Preliminary Plans which consist of the Initial Preliminary Plans revised to incorporate therein the mutually agreed upon changes and other comments. Upon completion of the Final Preliminary Plans, Engineer shall submit the same to the District for review and acceptance.

3.3. Design Documents. As required for the Project, Design Documents completed by the Engineer

in the Preliminary Plans phase for the Project shall include without limitation the following:

- 3.3.1. Demolition Plans. Identification of existing facilities and improvements to be demolished, including without limitation, description of items, systems, materials and/or equipment to be: (i) abandoned in place, (ii) removed, or (iii) salvaged.
- 3.3.2. Design/Details. Development and expansion of the Project requirements to establish the scope, relationships, forms, sizes and appearance of the Project through: (i) plans, sections and elevations; (ii) typical construction details; (iii) materials selections; and (v) equipment layouts.
- 3.3.3. Structural Design/Documentation. If required, structural engineering consisting of the development of the specific structural system(s) and materials with sufficient detail to establish: (i) basic structural system and dimensions; (ii) final structural design criteria; (iii) foundation design criteria; (iv) sizing of major structural components; (v) critical coordination clearances; and (vi) outline specifications or materials lists.
- 3.3.4. Mechanical Design/Documentation. Develop mechanical design to establish: (i) approximate equipment sizes and capacities; (ii) equipment layouts; (iii) required space for equipment; (iv) required chases and clearances; (v) acoustical and vibration control; (vi) visual impacts; and (vii) energy conservation measures.
- 3.3.5. Electrical Design/Documentation. If required, electrical engineering consisting of: (i) criteria for HVAC controls and building management systems; (ii) materials and equipment layouts; and (iii) required space for materials and equipment.
- 3.3.6. Plumbing Design/Documentation. If required, plumbing engineering consisting of plumbing design to establish: (i) general location of plumbing lines; (ii) plumbing line sizing; and (iii) plumbing fixtures.

3.4. Preliminary Plans Construction Cost Estimate. The Engineer shall prepare and deliver to the District a Construction Cost Estimate of the Preliminary Plans for the Project. If the Construction Cost Estimate of the Preliminary Plans materially exceeds the District's Construction Budget for the Project, the Engineer shall consult with the District to identify revisions to the Preliminary Plans as necessary so that the Construction Cost Estimate for the Work depicted in the Final Preliminary Plans is consistent with the Construction Budget for the Project. Revisions of the Preliminary Plans to conform with the Construction Budget shall be without adjustment to the Contract Price unless the District shall have directed modifications to, or inclusions in, the scope of the Project or component parts thereof which cause the Project Construction Budget to be exceeded.

4. Basic Services; Working Drawings Phase.

4.1. Working Drawings. Based upon the District accepted Final Preliminary Plans, the Engineer shall prepare Working Drawings consisting of all Drawings and Specifications and other Design Documents necessary or appropriate for setting forth in detail the requirements for the Work of the Project with sufficient clarity, coordination and consistency to permit qualified and capable contractors to bid upon and construct the Work depicted therein for the Project Construction Budget. Working Drawings shall include without limitation: (i) details establishing and defining the scope, relationships, forms, size and appearance of the Project and component parts thereof by site plans, floor plans, elevations, cross sections and other documents or calculations necessary to accurately depict design of the Project; (ii) typical construction details; (iii) equipment specifications and layouts; (iv) dimensions as necessary to accurately depict design of the Project or as consistent with professional engineering practices; and (v) complete and detailed written Specifications establishing and defining workmanship standards, materials/equipment standards or performance requirements, administration of the Construction

Contract for the Project and similar matters.

4.2. Working Drawings. The Working Drawings shall be one hundred percent (100%) complete dimensioned plans, elevations, sections, details, schedules and diagrams. Without limiting the generality of the foregoing component parts of the Working Drawings shall include:

4.2.1. Demolition. Complete and detailed descriptions of the existing facilities and improvements to be demolished, to remain in place or to be re-located, including specific direction for the removal, disposal, recycling or other handling of materials or equipment of the existing facilities and improvements to be demolished.

4.2.2. Structural. Structural details, structural notes and structural calculations.

4.2.3. Mechanical. Floor plans with all components and service/access areas drawn to scale, duct sizing and air flow quantities, detailed piping and duct design with sizing and coordinated with structural supports, equipment details with structural support and vibration isolation methods, penetration and sleeve details, space zoning, installation details, detailed controls requirements and design calculations for mechanical equipment, supporting infrastructure and structural supports to mechanical equipment and ducts.

4.2.4. Plumbing. Plumbing components shall be completely identified and located.

4.2.5. Electrical. Details of power service to HVAC controls and other electrically powered devices within the Project scope, connections with other building systems, including fire/life-safety, mechanical and building systems management, grounding details, penetration details.

4.2.6. Specifications. The Specifications shall be complete and incorporate all requirements for workmanship, materials, equipment and other requirements for the Project.

4.3. Review of Working Drawings Status. The Engineer shall provide to the District, for review and information, the Drawings, Specifications and other documents depicting the then current status of the Engineer's preparation of Working Drawings.

4.4. Detailed Construction Cost Estimate. At such time as the Engineer achieves fifty percent (50%) completion of the Working Drawings, the Engineer shall prepare a detailed Construction Cost Estimate for the Work depicted in the fifty percent (50%) completed Working Drawings ("the 50% Estimate"). If the detailed 50% Estimate materially exceeds the Construction Budget for the Project, the Engineer shall revise the Working Drawings as necessary so that the 50% Estimate conforms with the Construction Budget for the Project. Revisions of the Working Drawings shall be without adjustment to the Contract Price unless the District shall have directed modifications or inclusions to the scope of the Project or component parts thereof which cause the Construction Budget for the Project to be exceeded.

4.5. Approvals/Permitting of Working Drawings. The Engineer shall assist the District in obtaining all necessary approvals or permits for the Working Drawings for the Project from governmental and quasi-governmental agencies with jurisdiction over any portion of the Project as necessary for the bidding and construction of the Project including without limitation, approvals by the Division of State Engineer ("DSA"), if required. If any party of the Project is subject to DSA jurisdiction, without adjustment of the Contract Price for the Project, Engineer shall revise Working Drawings as required by DSA or other governmental or quasi-governmental agencies with jurisdiction over the Project, or portions thereof, to obtain their respective approval(s) or permit issuance.

5. Basic Services; Bidding Phase.

5.1. Development of Bid Documents. The Engineer will advise and make recommendations to the

District for bidding and award of the Construction Contract for the Project. Engineer will generally review and comment upon the District's proposed forms of Construction Contract and General, Special and other Conditions thereof for conformity and consistency with the Construction Documents. Engineer shall assist the District in preparation of information, documents and forms necessary or appropriate for bidding the Construction Contract for the Project ("Bid Documents").

5.2. Bidding Process. During the bidding for Construction Contract, Engineer will: (i) attend pre-bid conference(s), as called by the District; (ii) assist the District in responding to bidders' inquiries, questions or clarification requests relating to the Project; and (iii) where necessary or appropriate, the Engineer will prepare and assist the District in issuance of addenda to the Bid Documents for the Project. As requested by the District, the Engineer will assist the District in obtaining required governmental approval(s) for award of the Construction Contract.

5.3. Pre-Construction. The Engineer shall complete the following as necessary for the Project:

5.3.1. Conformed Design Documents. Prepare Conformed Design Documents consisting of the Design Documents initially issued by or on behalf of the District for bidding as modified by Addenda or other changes thereto made during the Bidding Phase. The Engineer shall complete preparation of the Conformed Design Documents so that the Conformed Design Documents are delivered to the District sufficiently in advance of the anticipated/planned commencement date of the Construction Phase of the Project to allow the District to reproduce Conformed Design Documents for distribution to the Contractor at or prior to commencement of the Construction Phase of the Project.

5.3.2. Project Inspector; Materials Tests/Inspections. If the Project is subject to DSA jurisdiction, as requested by the District, the Engineer shall assist in the District's selection and retention of a Project Inspector and/or materials test/inspection services for the Project.

5.3.3. DSA PR 13-01. If the Project is subject to DSA jurisdiction, the Engineer shall complete pre-construction activities required by DSA PR 13-01 for the Design Professional in Charge.

5.3.4. Contractor Meetings. The Engineer shall attend and participate in pre-construction meetings with the District and Contractor.

6. Basic Services; Construction Phase.

6.1. Administration of Construction Contract. The Engineer will provide assistance to the District in administration of the Construction Contract for the Project and construction of the Project. The scope of the Engineer's services in administration of the Construction Contract shall include all activities and responsibilities set forth herein and in the Construction Contract. The Engineer's administration of the Construction Contract for the Project shall be in conjunction with the services and responsibilities of the Project Inspector, Construction Manager, if applicable for the Project. The Engineer shall be a representative of the District and shall advise and consult with the District regarding construction of the Project until Final Payment under the Construction Contract for the Project is due and Final Completion of construction of the Project is certified by the Engineer and other Project participants. Engineer shall cooperate with and comply with controls, procedures, processes and reporting functions reasonably implemented by the District with respect construction of the Project.

6.2. Site Observations. The Engineer shall attend weekly meetings at the Site and other meetings relating to the Project and shall visit the Project Site at intervals appropriate to the stage of construction, as required by the conditions of construction or the Site, or as may be reasonably requested by the District from time to time for the purpose of becoming generally familiar with the progress and quality of completed construction and to generally determine if construction of the

Project is being performed in a manner indicating that upon completion it will be generally in accordance with the Construction Contract and the Construction Documents. On the basis of observations made during Site visits and in its capacity as an design professional/engineer, the Engineer shall: (i) keep the District informed of the progress and quality of the construction of the Project; and (ii) endeavor to guard the District against defects and deficiencies in the Project construction and the failure or refusal of the Contractor to construct the Project in accordance with the terms and intent of the Construction Contract and the Construction Documents. Without limiting any other right or remedy of the District whether pursuant to this Agreement or by operation of law, if in the course of its Site observations, the Engineer fails to discover or report to the District any patently observable major defect or deficiency in construction of the Project which by exercise of due care should have been observed by the Engineer and reported to the District, the Engineer will provide all design services necessary for remedial or corrective measures for such conditions without additional cost or expense to the District. The foregoing shall not be deemed to obligate the Engineer to observe or inspect concealed conditions, unless the nature of the visually apparent conditions are such that a prudent Engineer would conduct observations or inspections of related concealed conditions to confirm that there are no major defects or deficiencies in the concealed conditions. The provisions hereof shall not be construed as requiring the Engineer to make exhaustive or continuous Site observations to check on the quality or quantity of Project construction. The Engineer shall have access to the Project wherever in preparation, fabrication or progress.

6.3. Contractor Applications for Payment.

- 6.3.1. Development of Payment Procedures. In consultation with the District, the Engineer shall assist in the development and implementation of procedures, forms and documents for the submittal, review, processing and disbursement of Progress Payments to the Contractor for the Project.
- 6.3.2. Certification of Payment Due. Based on the Engineer's observations and evaluations, the Engineer shall certify the amount due the Contractor on each Application for Progress Payment. Such certification shall be the Engineer's representation to the District that based upon the Engineer's Site observations in accordance with this Agreement and the data contained in the Application for Progress Payment, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the terms of the Construction Contract. Issuance of a Certificate for Payment shall constitute Engineer's representation to the District that the Contractor is entitled to the amount certified.
- 6.3.3. Limitations Upon Engineer's Certification. The Engineer's certifications and representations hereunder are subject to an evaluation of the Work for conformity with the terms of the Construction Contract upon Substantial Completion, the results of subsequent tests and inspections, minor deviations from the terms of the Construction Contract correctable prior to Final Completion and any specific qualifications expressed by the Engineer. The issuance of a Certificate for Payment shall not be deemed a representation that the Engineer has: (i) made exhaustive or continuous Site inspections to check the quality or quantity of the Work; (ii) reviewed construction means, methods, sequences or procedures; (iii) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the District to substantiate the Contractor's right to payment, excepted as included in the materials accompanying an Application for Progress Payment transmitted to and reviewed by the Engineer hereunder; or (iv) ascertained for or what purpose the Contractor has used funds previously disbursed under prior Application(s) for Progress Payment.

- 6.3.4. Final Payment. The Engineer shall review, evaluate and certify for payment the Contractor's Application for Final Payment.
- 6.3.5. Timely Action by Engineer. Upon receipt of any of the Contractor's Applications for Progress Payment and the Application for Final Payment, the Engineer shall promptly commence and complete its review, evaluation and certification of the amount due on each such application so that the District can make payment of the amount certified within the time permitted by law without incurring liability for interest and/or the Contractor's attorneys' fees resulting from untimely payments of any Progress Payment or the Final Payment. If the Engineer fails to take timely action pursuant to the preceding, the Engineer shall be liable to the District for all costs, demands, liabilities or losses arising out of or related to such failure to timely take action.
- 6.4. Rejection of Work. The Engineer shall have the authority, after notification to the District and Construction Manager, to reject Work of the Project which does not conform with the requirements of the Construction Contract. Whenever the Engineer considers it necessary or appropriate for implementation of the intent of the Construction Contract upon notice to the District and Construction Manager, and authorization by the District, the Engineer may require additional inspection or testing of materials/equipment, whether such materials/equipment are prepared, fabricated, installed or constructed. This authority of the Engineer, or the Engineer's good faith determination to exercise or not exercise such authority, shall not, however, give rise to a duty or responsibility of the Engineer to the District, the Contractor or any others constructing any portion of the Project to exercise or not to exercise such authority.
- 6.5. DSA. If the Work is subject to DSA jurisdiction, the following shall apply.
- 6.5.1. Project Inspector. The Engineer shall consult with and cooperate with the Project Inspector in discharge of the Project Inspector's duties to observe construction of the Project. Where the Project Inspector notes defective or deficient construction, the Engineer shall: (i) assist in development of solutions to such conditions; and (ii) assist the Project Inspector in oversight of corrective measures.
- 6.5.2. Materials Tests/Inspections. The Engineer shall assist in scheduling and coordination of materials tests/inspections and observe such tests/inspections as required or appropriate. The Engineer shall review materials test/inspection reports, data and similar materials ("Test Reports") for confirmation of compliance with requirement of the Construction Contract; the Engineer shall advise the District and Project Inspector of necessary remedial or corrective measures if Test Reports do not comply with Construction Contract requirements.
- 6.5.3. Reports; Communications. The Engineer shall file DSA Reports as required by the Laws. The Engineer shall communicate with DSA regarding the Project on behalf of the District; the Engineer shall keep the District informed of Engineer/DSA communications relating to the Project.
- 6.6. Submittals.
- 6.6.1. Submittal Procedures. In consultation with the District, the Engineer shall assist in the development and implementation of forms, documents and procedures for the handling, review and processing the Contractor's Submittals required for the Project.
- 6.6.2. Submittal Review. The Engineer shall review, and take appropriate action upon Submittals for the purpose of checking for conformance with the information given and the design concept expressed in the Design Documents. The Engineer's actions hereunder shall be taken with such reasonable promptness as to cause no delay, interruption or hindrance to the activities of the Contractor or others performing

construction activities at the Site affected by such Submittal while allowing sufficient time in the Engineer's professional judgment to permit adequate review. If a Submittal Schedule or time frames for completion of the Engineer's review and evaluation of Submittals are developed and established pursuant to the Construction Contract with the participation and concurrence of the Engineer, Engineer's actions hereunder shall conform with such Submittal Schedule or time frames; Engineer shall be responsible for all results or consequences of its failure or refusal to complete its review and evaluation of Submittals in accordance with such Submittal Schedule. When professional certification of performance characteristics of materials, systems or equipment is required by the terms of the Construction Contract, the Engineer shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Construction Contract.

- 6.6.3. Limitations Upon Submittal Review. The Engineer's review of Submittals is not for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor in accordance with the Construction Contract. The Engineer's review shall not constitute approval of safety precautions or, unless otherwise expressly stated by the Engineer, construction means, methods, sequences or procedures.

6.7. Changes.

- 6.7.1. Changes Procedures and Processing. In consultation with the District, the Engineer shall assist in the development of procedures, forms and processes for the evaluation of Changes or potential Changes to the Work of the Project.
- 6.7.2. Evaluation of Changes; Change Orders. The Engineer shall assist the District in evaluating Change Proposals of the Contractor and will advise the District of the nature, extent and scope of Change Proposals along with alternatives. Where Changes are authorized by the terms of the Construction Contract, the Engineer shall prepare, execute and forward to District a Change Order describing such Change and the adjustment if any, to the Contract Price or Contract Time of the Construction Contract.
- 6.7.3. Authority to Direct Minor Changes. The Engineer may authorize and direct minor Changes in the Work of the Project which do not involve an adjustment of the Contract Time or the Contract Price of Construction Contract and which are consistent with the intent of the Design Documents. Such Changes shall be effectuated by written order issued by the Engineer and copied to the District.

6.8. Interpretations.

- 6.8.1. Procedures for Handling Contractor's Requests. In conjunction with the District, the Engineer shall assist in the development of forms, documents and procedures for the transmittal, handling, response and disposition of requests and inquiries relative to the Work or the Design Documents.
- 6.8.2. Engineer's Interpretation. The Engineer shall interpret and decide matters concerning the performance of the District, or the Contractor on written request of the District, or the Contractor. The Engineer shall respond to and issue clarifications as necessary to address and resolve questions or inquiries of the Contractor relative to coordination, consistency and clarity of the Design Documents and the component parts thereof. The Engineer's responses to the foregoing shall be made with

reasonable promptness and within any time limits established in the Construction Contract or which may otherwise be mutually agreed upon.

6.8.3. Effect of Engineer's Decisions. The Engineer's decisions and interpretations rendered hereunder shall be consistent with the intent of and reasonably inferable from the Construction Contract or the Design Documents and shall be in writing or in the form of drawings. When making such decisions or interpretations, the Engineer shall endeavor to secure faithful performance of the Contractor and the District, shall show no partiality to either and shall not be liable for the results of such decisions or interpretations rendered in good faith, in accordance with the terms hereof and the Engineer's discharge of due care. The Engineer's decisions or interpretations in matters pertaining to aesthetic effect shall be final and binding on the Contractor and District if consistent with the intent expressed in the Construction Contract or Design Documents.

6.8.4. Contractor Claims. The Engineer shall render written decisions regarding claims, disputes or other matters in controversy between the District and the Contractor arising under or relating to the Construction Contract, including the execution or progress of Work thereunder. The Engineer's decisions shall be in accordance with any applicable time limits set forth in the Construction Contract; if no time limits are set forth, the Engineer shall render decisions within a reasonable time.

6.9. Records and Reports. The Engineer shall maintain current, accurate and complete records relating to the construction of the Project, including without limitation, correspondence, memorandum, Change Orders, Change Order Requests, Proposal Requests and similar records for the Project. The Engineer shall timely prepare and submit all reports regarding the Project construction required by applicable law, rule or regulation.

6.10. Limitations Upon Engineer's Construction Phase Services. Engineer's services during the Construction Phase shall not be deemed Engineer's assumption of, or control over, construction means, methods and sequences or Site safety, all of which remain the responsibility of the Contractor. Engineer shall not have control over or charge of the acts or omissions of the Contractor or its Subcontractors or their agents and employees.

7. Basic Services; Post Construction Phase.

7.1. Substantial Completion. Upon request of the Contractor, the Engineer shall inspect the Work to determine if Substantial Completion has been achieved and if not the measures necessary to achieve Substantial Completion. The Engineer shall determine and certify the date of Substantial Completion of the Project, or portions thereof.

7.2. Punchlist. At the time of determining Substantial Completion, the Engineer shall note the discovered conditions of the Work requiring correction, replacement, removal or other action necessary to comply and conform with the requirements of the Construction Contract ("the Punchlist"). The Engineer shall determine the time reasonably necessary to complete the Punchlist items. If mutual agreement is not reached establishing the time for the Contractor's completion of the Punchlist, the Engineer shall make a binding good faith determination of the time for the Contractor's completion of the Punchlist. The Engineer shall thereafter periodically review the Contractor's performance and completion of the Punchlist.

7.3. Final Completion. In conjunction with the District and upon request of the Contractor, the Engineer shall inspect the Work of the Project to determine that Final Completion has been achieved and that the Work conforms and complies with the requirements of the Construction Contract, including completion of the Punchlist prepared at Substantial Completion. The Engineer shall determine and certify the date of Final Completion of the Project or portions

thereof.

7.4. Close-Out Documents.

- 7.4.1. Assembly/Transmittal of Close-Out Documents. The Engineer compile and assemble the Contractor's close-out documents for delivery to the District, including without limitation, Record As-Built Drawings, Operations and Maintenance manuals, key schedules and warranties. If the Contractor fails to fully comply with its close-out obligations, the Engineer shall make recommendations to the District for implementation of measures to secure the Contractor's compliance; as requested by the District, the Engineer shall take action to enforce or implement measures to secure the Contractor's compliance with close-out obligations.
- 7.4.2. DSA Certification. If the Work is subject to DSA jurisdiction, the Engineer shall assist the District in preparation and submittal of such documentation as required by DSA for DSA Certification of the Project. The Engineer shall advise and assist the District in completing remedial/corrective measures required for issuance of DSA Certification.
- 7.4.3. As-Built Drawings. The District shall require the Contractor for the Project to provide the District with As-Built Record Drawings indicating the location and size of all concealed, underground or imbedded construction not covered in the original Drawings, Change Orders, Supplemental Drawings or Shop Drawings. The Contractor shall be required to record such work on reproducible drawings furnished to the Contractor by the District. The Contractor's As-Built Record Drawings shall be delivered by the Contractor to the Engineer for the Engineer's review and delivery to the District. The Engineer's review of the Contractor's As-Built Record Drawings shall be for the limited purpose of generally determining that the Contractor has complied with its obligations to prepare As-Built Record Drawings; responsibility for the accuracy and completeness of the As-Built Record Drawings is that of the Contractor.

8. Additional Services.

- 8.1. Additional Services; General. The services described in this Paragraph 8 are not included in the scope of Engineer's Basic Services for the Project. Additional Services described in this Paragraph 8, which are not part of the Basic Services of the Project shall be compensated for the same in accordance with the provisions of this Agreement relating to payments for District authorized Additional Services.
- 8.2. Design Document Revisions. Making significant revisions to the Drawings, Specifications or other Design Documents where such revisions are: (i) inconsistent with approval or instructions previously given by the District, including revisions necessary due to significant adjustments in the District's Program, budget or construction completion time for the Project; (ii) required by enactment of, or revisions to codes, laws, rules or regulations applicable to the Work of the Project where such enactment or revision could not have been reasonably foreseen by Engineer; or (iii) due to the District's failure to render decisions in a timely manner.
- 8.3. District/Contractor Default. Services required or necessary as a result of the default or termination of the Contractor, failure of performance by the District or the Contractor, or major defects or deficiencies in the Work of the Contractor which were not and could not have been noted by the Engineer in its Site observations under Paragraph 6.2 hereof.
- 8.4. Design Documents Changes. Except as provided in Paragraph 6 above, preparing Drawings, Specifications or other Design Documents, along with supporting data in connection with Changes to the Work of the Project.

- 8.5. Contractor Substitutions. Providing services in connection with the evaluation(s) or request(s) by the Contractor for the Project to provide substitute or alternative systems, equipment or materials to those indicated in the Design Documents and making subsequent revisions to the Design Documents and other documentation resulting therefrom.
- 8.6. Damaged Work. Providing consultation or other services in connection with repairs, replacements or corrections of the Work of the Project damaged or destroyed by fire or other casualty so long as no negligent or willful acts, omissions or other conduct of Engineer or its employees, agents or representatives have caused or contributed to such damage or destruction to the Project.
- 8.7. Excessive Contractor Claims. Providing services in connection with evaluation of an extensive and excessive number of claims submitted by the Contractor for the Project, except to the extent that such claims arise out of the services, Design Documents or other work product provided or performed by or through Engineer hereunder.
- 8.8. Expert Witness. Providing services as an expert witness in connection with a public hearing, arbitration or other legal proceeding arising out of the Project, except where Engineer is a party thereto, is called as a percipient witness (in which case Engineer shall be entitled to witness fees and costs as allowed by law) or is found liable for damages or other relief.
- 8.9. Future Improvements. Services relative to future systems, facilities or equipment not included within the scope of the Project.
- 8.10. Existing Conditions. Services to investigate existing conditions or facilities not included within the scope of the Project or to provide measured drawings thereof.
- 8.11. Furniture, Furnishings, Equipment. Services in connection with the District's selection, procurement or installation of furniture, furnishing or equipment not included within the scope of the Construction Contract for the Project.
- 8.12. Financial/Special Studies. Providing financial feasibility or other special study in connection with the Project.
- 8.13. Special Surveys. Providing planning surveys or special surveys for Site evaluations, comparative studies or assessment of environmental conditions, to the extent not included in the scope of Basic Services for the Project.
- 8.14. Operational/Maintenance Cost Analysis. Analysis of ownership, operational or maintenance costs of the or the components thereof to the District.
9. District Responsibilities.
- 9.1. Information. The District shall provide full information regarding the Project, including the District's objectives, general description of the scope, schedule requirements, construction budget, and other constraints and requirements which may affect the Project. Except as set forth herein, the Engineer shall be entitled to rely on the accuracy and completeness of information relating to the Project provided by the District. The foregoing notwithstanding, if any information provided by the District to the Engineer consists of information relating to existing "as built" conditions of improvements on or about the Site of the Project, the Engineer shall be entitled to rely upon information in concealed or covered conditions, but the Engineer shall independently verify the accuracy and completeness of information of existing "as built" conditions which are visually apparent without opening or uncovering any existing improvements. If in such independent verification, the Engineer encounters conditions different than noted in the District provided information, the Engineer shall notify the District in writing of such encountered discrepancies.
- 9.2. District Representative. The District shall designate a representative to act on the District's behalf

with respect to the Project and who shall be authorized to render decisions on behalf of the District and to carry out the District's responsibilities under this Agreement, all of which shall be discharged or performed in a manner so as to avoid unreasonable delay in the orderly and sequential progress of design and construction of the Project and Engineer's services hereunder.

- 9.3. District Consultants. The District shall furnish all legal, accounting, insurance and other consulting services as may be necessary for the Project.
- 9.4. Test and Inspections. The District shall furnish or otherwise retain inspection or testing services in connection with construction of the Project as required by applicable code, regulation, ordinance or the terms of the Construction Contract. The District shall provide, if required by applicable code, regulation or rule or by conditions encountered, tests or inspections for hazardous or toxic materials.
- 9.5. District Notice of Non-Conformity. The District will give prompt written notice to the Engineer if the District becomes aware of any fault, failure or neglect of Engineer or the services provided by Engineer hereunder; provided that the failure or delay by District in giving such written notice shall not constitute a waiver of any right or remedy of the District arising out of such fault, failure or neglect of the Engineer. Upon receipt of such notice, a material obligation of the Engineer under this Agreement is its prompt action to fully remedy the fault, neglect or failure identified by the District in the District's written notice.

10. Insurance and Indemnity.

- 10.1. Engineer Insurance. At all times while providing or performing services under this Agreement, the Engineer shall obtain and maintain the policies of insurance described in this Paragraph 10. The minimum coverage limits of each policy of insurance to be obtained and maintained by the Engineer while providing or performing services in connection with the Project shall be as set forth in this Agreement.
- 10.2. Workers Compensation and Employers Liability Insurance. Engineer shall purchase and maintain Workers' Compensation Insurance covering claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts may be liable. Engineer shall purchase and maintain Employer's Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee's employment by Engineer. The Employer's Liability Insurance required of Engineer hereunder may be obtained by Engineer as a separate policy of insurance or as an additional coverage under the Workers' Compensation Insurance required to be obtained and maintained by Engineer hereunder.
- 10.3. Commercial General Liability and Property Insurance. Engineer shall purchase and maintain Commercial General Liability and Property Insurance as will protect Engineer from the types of claims set forth below which may arise out of or result from Engineer's services under this Agreement and for which Engineer may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than Engineer's employees; (ii) claims for damages insured by usual personal injury liability coverage; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; and (v) contractual liability insurance applicable to Engineer's obligations under this Agreement. District shall be an additional insured to Engineer's commercial general liability insurance policy.
- 10.4. Professional Liability Insurance. Engineer will procure and maintain professional liability insurance covering liabilities of the Engineer arising out of the performance of services under this Agreement.

- 10.5. Coverage Amounts. Insurance to be procured and maintained by Engineer hereunder shall be in the coverage amounts set forth in the Agreement.
- 10.6. Policy Endorsements; Evidence of Insurance. Engineer shall deliver Certificates of Insurance to the District evidencing each of the policies of insurance in the coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) admitted to issue insurance by the State of California and to the reasonable satisfaction of the District. Coverages under each policy of insurance required hereunder, whether by endorsement or otherwise, shall provide that such policy will not be modified or canceled without at least thirty (30) days advance written notice to the District.
- 10.7. Engineer’s Insurance Minimum Coverage Amounts. Minimum coverage amounts for policies of insurance to be obtained and maintained by the Engineer are:

Insurance Policy	Minimum Coverage Limit
Workers Compensation	In accordance with law
Employers Liability	One Million Dollars (\$1,000,000)
Commercial General Liability	Per Occurrence: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)
Automobile Liability	Combined Single Limit: One Million Dollars (\$1,000,000)
Professional Liability	Per Claim: One Million Dollars (\$1,000,000)
	Aggregate: Two Million Dollars (\$2,000,000)

10.8. Policy Endorsements; Evidence of Insurance. Engineer shall deliver to the District Certificates of Insurance evidencing each of the policies of insurance in the coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) admitted to issue insurance by the State of California and to the reasonable satisfaction of the District. Coverages under each policy of insurance required hereunder, whether by endorsement or otherwise, shall provide that such policy will not be modified or canceled without at least thirty (30) days advance written notice to the District. The District shall be an additional insured under the Engineer’s Commercial General Liability insurance policy.

10.9. Indemnity.

10.9.1. Engineer Indemnity. To the fullest extent permitted by law, the Engineer shall indemnify, defend and hold harmless the District and its employees, officers, Board of Trustees, Trustees, agents and representatives (collectively “the Indemnified Parties”) from any and all claims, actions, demands, losses, responsibilities or liabilities for: (i) injury or death of Engineer’s employees arising out of this Agreement; (ii) injury or death of persons, damage to property, or (iii) other costs or charges arising out of or attributable, in whole or in part, to the negligent, grossly negligent or willful acts, conduct of Engineer and its Design Consultants or the employees, agents and representatives of the Engineer or its Design Consultants in performing or providing any of the obligations, services or other work product contemplated under this Agreement. The foregoing shall include without limitation, reasonable attorneys’ fees and costs incurred by the Indemnified Parties and shall survive the termination of this Agreement until any such claim, demand, loss, responsibility or liability covered by the provisions hereof is barred by the applicable Statute of Limitations.

10.9.2. District Indemnity of Engineer. The District shall indemnify and hold harmless Engineer from all claims arising out of bodily injury (including death) and physical damage (other than to the Project itself and property covered by a policy of Builder’s Risk Insurance) which arise out of the negligent or willful acts, omissions or other

conduct of the District.

11. Engineer Compensation

11.1. Contract Price. The Contract Price for completion of the Basic Services is the fixed price, lump sum amount of _____ Dollars (\$_____). The Contract Price is not subject to adjustment except in accordance with provisions of this Agreement.

11.2. Fees, Costs and Expenses Incorporated Into Contract Price. the Contract Price for the Project includes the Engineer’s fee, personnel expense of the Engineer, inclusive of all benefits and burdens, travel for the personnel of the Engineer to and from their respective offices and the District as well as travel within the **counties of Imperial, Riverside, San Bernardino and San Diego**, insurance and all other administrative or overhead costs associated with or arising out of performance of the Basic Services.

11.3. Construction Phase Changes; Adjustment of Contract Price. The Contract Price for the Basic Services for the Project is not subject to adjustment unless there are Changes authorized by the District during the Construction Phase of the Project which are not the result of errors, omissions or other defects in the Design Documents or failures of the Engineer to timely and completely perform the Basic Services for the Project. If services of the Engineer are required in connection with Changes during the Construction Phase of the Project which do not result from errors, omissions or other defects in the Design Documents or failures of the Engineer to timely and completely perform the Basic Services for the Project, the Contract Price for the Project will be equitably adjusted by an amount equal to the lesser of: (i) eight percent (8%) of the Construction Costs of a Change; or (ii) the time reasonably necessary for personnel of the Engineer to complete modifications to the Design Documents to incorporate such a Change, multiplied by the applicable hourly rate for such personnel. If a Change during the Construction Phase of the Project is the result of errors, omissions or other defects in the Design Documents or failures of the Engineer to timely and completely perform the Basic Services, services required of the Engineer in connection with such Change shall not result in adjustment of the Contract Price for the Project.

11.4. Reimbursable Expenses. The Contract Price for Engineer’s Basic Services includes all costs and expenses of a non-capital nature reasonably and necessarily incurred by Engineer to perform the Basic Services including without limitation expenses for telephone, postage, delivery, office supplies, reproduction of plans and prints, photographic film and development and travel to and from the office of the Engineer to the Project and the District’s Administrative offices. Unless expressly authorized in advance by the District, no payment will be made by the District for expenses or costs of any kind, type or nature.

11.5. Additional Services. If the District authorizes or directs the Engineer to perform or provide Additional Services described generally in Paragraph 8 of this Agreement in connection with the Project, Engineer shall be compensated for its personnel providing such Additional Services in accordance with the hourly personnel rate schedule attached to this Agreement (“the Rate Schedule”).

11.6. District Payments.

11.6.1. Allocation of Contract Price. The District’s payment of the Contract Price for Basic Services the Project shall be allocated amongst the various Phases of the Basic Services for the Project set forth below

Basic Services Phases	Contract Price Allocation
Pre-Design (Programming)	
Preliminary Plans	
Working Drawings	

Bidding	
Construction	
Post-Construction	

- 11.6.2. Engineer Billings to District. During the course of providing Basic Services for the Project, Engineer shall submit monthly billing invoices to the District for payment of the Contract Price for Basic Services and authorized Additional Services performed in the immediately prior month. Engineer’s billings shall be in such form and format as may be reasonably requested by District.
- 11.6.3. District Payments to Engineer. Within thirty (30) days of receipt of Engineer’s billing invoices, District will make payment to Engineer of undisputed amounts of the Contract Price due for Basic Services and authorized Additional Services for the Project. No deductions shall be made or withheld from payments due Engineer hereunder on account of any penalty, assessment, liquidated damages or other amounts withheld by the District from payment to the Contractor engaged by the District for construction of the Project. The District may, however, withhold or deduct from amounts otherwise due Engineer hereunder if Engineer shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Engineer has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom. Notwithstanding any provision of this Agreement to the contrary, if the District shall, in good faith, dispute the amount due Engineer under any billing invoice rendered by Engineer under this Agreement, pursuant to Civil Code §3320(a), the District may withhold from payment to the Engineer an amount not to exceed one hundred and fifty percent (150%) of the disputed amount.

12. Term; Time.

- 12.1. Term. The initial term of this Agreement shall commence upon the District and the Engineer each executing a counterpart copy hereof, delivery of an executed counterpart copy hereof to the other and ratification of this Agreement by the District’s Board of Trustees (“the Initial Term”). The Term shall expire thirty (30) days after the date of Final Completion of the Project as certified by the Engineer.
- 12.2. Time. All of the Basic Services and authorized Additional Services for the Project shall be completed by the Engineer in a prompt and diligent manner as is consistent with professional skill and care. If a schedule for completion of Basic Services is agreed upon between the District and the Engineer, the Engineer’s performance and completion of Basic Services shall be in accordance with such schedule. The Engineer shall be liable to the District for all costs, losses, damages or other liabilities arising out of the failure of the Engineer to complete Basic Services for the Project in accordance with an agreed upon schedule, provided that the Engineer’s liabilities hereunder shall not extend to costs, losses, damages or other liabilities caused by factors beyond the reasonable control of the Engineer.

13. Termination; Suspension

- 13.1. Termination for Default. Either the District or Engineer may terminate this Agreement upon seven (7) days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the seventh (7th) day following the date of the written termination notice, unless during such seven (7) day period, the Party receiving the written termination notice shall commence to cure it default(s) and diligently thereafter prosecute such cure to completion. In addition to the District’s right to terminate this Agreement pursuant to the foregoing, the District may terminate this Agreement

upon written notice to Engineer if: (a) Engineer becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by Engineer or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for Engineer or any of Engineer's property on account of Engineer's insolvency; or (b) if Engineer disregards applicable laws, codes, ordinances, rules or regulations. If District exercises the right of termination hereunder, the Contract Price due the Engineer, if any, shall be based upon Basic Services and authorized Additional Services for the Project as of the date of termination provided prior the effective date of the District's termination of this Agreement, reduced by the District's prior payments of the Contract Price due for such the Project and losses, damages, or other costs sustained by the District arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due the Engineer, if any, shall be made by District only after completion of the Post-Construction Phase of the Project. Engineer shall remain responsible and liable to District all losses, damages or other costs sustained by District arising out of termination pursuant to the foregoing or otherwise arising out of Engineer's default hereunder, to the extent that such losses, damages or other costs exceed any amount due Engineer hereunder for Basic Services or authorized Additional Services.

- 13.2. District's Right to Suspend. The District may, in its discretion, suspend all or any part of the design or construction of the Project or the Engineer's services hereunder; provided, however, that if the District shall suspend construction of the Project or Engineer's services for a period of sixty (60) consecutive days or more and such suspension is not caused by the Engineer's default or the acts or omissions of Engineer, upon rescission of such suspension, the Contract Price will be subject to adjustment to reflect actual costs and expenses incurred by Engineer, if any, as a direct result of the suspension and resumption of Project construction or Engineer's services.
- 13.3. District's Termination for Convenience. The District may, at any time, upon seven (7) days advance written notice to Engineer terminate this Agreement, in whole or in part, for the District's convenience and without fault, neglect or default on the part of Engineer. In such event, the Agreement shall be deemed terminated seven (7) days after the date of the District's written notice to Engineer or such other time as the District and Engineer may mutually agree upon. In such event, the District shall make payment of the Contract Price to Engineer for services provided through the date of termination plus actual costs incurred by Engineer directly attributable to such termination.
- 13.4. Engineer Suspension of Services. If the District shall fail to make payment of the Contract Price for the Project when due Engineer hereunder, Engineer may, upon seven (7) days advance written notice to the District, suspend further performance of services relating to the Project until payment in full is received. In such event, Engineer shall have no liability for any delays or additional costs of construction of the Project due to, or arising out of, such suspension.
- 13.5. Engineer Obligations Upon Termination. Upon the District's exercise of the right of termination under Paragraph 13.1 or Paragraph 13.3 of this Agreement, the Engineer shall take action as directed by the District relative to on-going preparation of the Design Documents or construction of the Project. If requested by the District, the Engineer shall within ten (10) days of such request, assemble and deliver to the District all work product, instruments of service and other items of a tangible nature (whether in the form of documents, drawings, samples or electronic files) prepared by or on behalf of the Engineer under this Agreement. The Engineer shall deliver the originals of all work product, instruments of service and other items of a tangible nature requested by the District pursuant to the preceding sentence; provided, however, that the Engineer may, at its sole cost and expense, make reproductions of the originals delivered to the District.

14. Miscellaneous.

- 14.1. Governing Law; Interpretation. This Agreement shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the District or Engineer.
- 14.2. Marginal Headings; Captions. Marginal Headings; Captions. The titles of the various Paragraphs of the Agreement are for convenience of reference only and are not intended to and shall in no way enlarge or diminish the rights or obligations of Engineer and District hereunder.
- 14.3. Severability. If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.
- 14.4. Cumulative Rights; No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by District or Engineer hereunder shall be deemed a waiver of any right or remedy afforded hereunder or acquiesce or approval of any breach or default by the other.
- 14.5. Successors; Non-Assignability. This Agreement and all terms hereof are binding upon and inure to the benefit of the respective successors of Engineer and the District. Neither Engineer nor District shall assign rights or obligations hereunder without the prior consent of the other, which consent may be withheld or granted in sole discretion of the Party requested to grant such consent.
- 14.6. Authority. The individual(s) executing this Agreement on behalf of Engineer warrant and represent that she/he is authorized to execute this Agreement and bind Engineer to all terms hereof. The individual(s) executing this Agreement on behalf of District warrant and represent that she/he his authorized to execute this Agreement and subject to approval and ratification by the District’s Board of Trustees, to bind District to all terms hereof and authority granted to enter into this Agreement.
- 14.7. Notices. Notices under this Agreement shall be addressed and delivered as follows:

If to District:
 Attn: Joseph Jackson, Program Manager
 Business Office
 Building 10, Room #16
 380 East Aten Rd.
 Imperial, CA 92251_____

If to Engineer:

- 14.8. Disputes.
 - 14.8.1. Continuation of Engineer Services. Except in the event of the District’s failure to make undisputed payment of the Contract Price due the Engineer, notwithstanding any disputes between District and Engineer hereunder or in connection with the Project, the Engineer and District shall each continue to perform their respective obligations hereunder; including the obligation of the Engineer to continue to provide and perform Basic Services and authorized Additional Services pending a subsequent resolution of such disputes.
 - 14.8.2. Mandatory Mediation. All claims, disputes and other matters in controversy between

the Engineer and the District arising out of or pertaining to this Agreement or the Project shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association (“AAA”) and the Construction Mediation Rules of the AAA in effect at the time that a Demand For Mediation is filed. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the District or the Engineer commencing arbitration proceedings.

- 14.8.3. Binding Arbitration. Claims, disputes, disagreements or other matters in controversy between the District and the Engineer which are not resolved by the mandatory mediation proceeding described above shall be resolved by binding arbitration proceedings conducted by a single arbitrator in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (“AAA”) in effect as of the date that a Demand for Arbitration is filed, except as expressly modified herein. The award rendered by the Arbitrator(s) (“Arbitration Award”) shall be final and binding upon the District and the Engineer only if the Arbitration Award is: (i) supported by applicable law; (ii) supported by substantial evidence pursuant to California Code of Civil Procedure §1296; and (iii) includes findings of fact and conclusions of law in conformity with California Code of Civil Procedure §1296 and Rule R-43 of the AAA Construction Industry Arbitration Rules. The District and Engineer hereby expressly agree that the Court shall, subject to California Code of Civil Procedure §§1286.4 and 1296, vacate the Arbitration Award if, after review of the award, the Court determines either that the Arbitration Award is not supported by substantial evidence, or is based on an error of law, or is not accompanied by Findings of Fact and Conclusions of Law. The locale for any arbitration commenced hereunder shall be the regional office of the AAA closest to the Site. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations. The expenses and fees of the Arbitrator(s) shall be divided equally among the parties to the arbitration. Each party to any arbitration commenced hereunder shall be responsible for and shall bear its own attorneys’ fees, witness fees and other cost and expense incurred in connection with such arbitration. The foregoing notwithstanding, the Arbitrator(s) may award arbitration costs, including Arbitrators’ fees but excluding attorneys’ fees, to the prevailing party. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §1285 et seq.
- 14.8.4. Engineer Compliance with Government Code §900 et seq. All claims, demands, disputes, disagreements or other matters in controversy asserted by the Engineer against the District in a demand for arbitration filed pursuant to Paragraph 13.8.3 above is deemed a “suit for money or damages” under Government Code §900 et seq. An express condition precedent to the Engineer’s commencement of arbitration proceedings under Paragraph 14.8.3, is the Engineer’s compliance with and exhaustion of remedies and procedures under Government Code §900 et seq,

including without limitation, §§945.4, 945.6 and 946. Notwithstanding the dispute resolution and arbitration provisions set forth herein, all claims demands, disputes, disagreements or other matters in controversy asserted by the Engineer against the District seeking money or damages in any sum shall first be presented to the District's Board of Trustees and acted upon or deemed rejected by the Board of Trustees in accordance with Government Code §900 et seq.

14.9. Confidentiality. Unless disclosure is required by applicable law or valid court order, the Engineer shall maintain the confidentiality of all information provided by or through the District to the Engineer and shall not disclose or otherwise disseminate any information conveyed by or through the District to the Engineer relating to this Agreement or the Project.

14.10. Definitions.

- 14.10.1. Construction Contract. The Contract for Construction awarded by the District to the Contractor for the construction of the Project.
- 14.10.2. Contractor. The individual or entity awarded the Construction Contract by the District for the Project.
- 14.10.3. Design Documents. The Drawings, Specifications, calculations and other work product prepared by the Engineer for the Project or any portion thereof.
- 14.10.4. Submittals. Shop Drawings, Product Data or Samples prepared or provided by the Contractor or its Subcontractor(s) or supplier(s) illustrating some portion of the Work of the Project.
- 14.10.5. Site. The physical area for construction and related activities of the Project.
- 14.10.6. Drawings and Specifications. The Drawings are the graphic and pictorial portions of the Design Documents showing generally the location, design and dimensions of the Work of the Project, including without limitation, plans, elevations, sections, details, schedules and diagrams. Specifications are the portion of the Design Documents which consist of written requirements for materials, equipment, construction systems, standards, criteria and workmanship for the Work and related services.
- 14.10.7. Work. All of the construction and other services required by the terms of the Construction Contract, including all labor, materials, equipment and other services required of the Contractor under the terms of the Construction Contract to complete the Project.
- 14.10.8. Project Construction Budget. The Project Construction Budget refers to the total costs allocated by the District for construction of the Project, exclusive of the Contract Price under this Agreement, site acquisition costs and the costs of furniture, furnishing and/or equipment for the Project. The Project Construction Budget established by the District may be modified by the District upon notice to the Engineer. As used in this Agreement, the term "Project Construction Budget" refers to the then current amount allocated for construction of the Project as modified from time-to-time.
- 14.10.9. Construction Cost Estimate. Construction Cost Estimates are estimates prepared by or on behalf of the Engineer of the current costs of labor, materials, equipment and services plus a reasonable allowance for the Contractor's profit, overhead and administrative cost as necessary to complete construction of the Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Contractor bids for the Work of the Project and Changes in the Work during construction of the Project; the allowance for contingency costs shall be

consistent with the contingency established by the District in the Project Construction Budget, if any.

14.10.10. Construction Cost Estimate. Construction Cost Estimates are estimates prepared by or on the behalf of the Engineer of the anticipated costs of labor, materials, equipment and services plus a reasonable allowance for the Contractor's profit, overhead and administrative cost as necessary to complete construction of the Project in accordance with the Design Documents for the Project. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of bids for the Work of the Project and Changes in the Work during construction of the Project; the allowance for contingency costs shall be consistent with the contingency established by the District in the Project Construction Budget, if any.

14.11. Use and Ownership of Design Documents.

14.11.1. Ownership. Subject to the provisions hereof, all Drawings, Specifications, estimates, Instruments of Service and other tangible items ("Project Documents") prepared by or through the Engineer for the Project shall be and remain the property of the District. The Project Documents shall be and remain the property of the District regardless of the format on which said items are prepared or stored, including without limitation paper copies, original or reproducible transparencies, AutoCAD R-2002 files (or similar computer-aided drafting of design formats), or other types of computerized data. The District specifically maintains ownership of the design of the Project and the design of any buildings or other improvements which are a part thereof, notwithstanding creation/preparation of such design by or through the Engineer, and such design may not be re-used by the Engineer or its employees without the specific prior written consent of the District which may granted, denied or conditioned in the sole exclusive discretion of the District. Subject to the District's ownership of tangible Project Documents, the copyright and other intellectual property rights in all Project Documents shall remain with the Engineer.

14.11.2. Right to Use. The Engineer grants to the District a perpetual license to use and/or reuse all or any part of the Project Documents at the District's sole discretion with no additional compensation to the Engineer for the purposes of: (i) construction of all or part of the Project; (ii) the repair, renovation, modernization, replacement, reconstruction or expansion of the Project; or (iii) the construction of another project by or for the District for the District's ownership and/or use. The District is not bound by this Agreement to employ the services of the Engineer in the event any of the Project Documents are used for such purposes. The District shall be authorized to use or reuse the Project Documents for these purposes without liability to the Engineer or third parties with respect to the condition of the Project Documents, and the use or reuse of the Project Documents for these purposes shall be not be construed or interpreted to waive or limit the District's right to recover for latent defects or for errors or omissions of the Engineer; provided, however, that any use or reuse by the District of the Project Documents on any project other than the Project for which the Project Documents were prepared without employing the services of the Engineer shall be at the District's own risk. If the District uses or reuses the Project Documents on any project other than the Project for which the Project Documents were prepared for, the District shall remove the Engineer's seal from the Project Documents and indemnify and hold harmless the Engineer from claims arising out of the use or reuse of the Project Documents on such other project.

14.11.3. District License to Use Project Documents. This Agreement creates a non-exclusive

and perpetual license for the District to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein.

14.11.4. Engineer Right to Grant License. The Engineer represents and warrants that the Engineer has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Project Documents prepared by or through the Engineer under this Agreement.

14.12. Entire Agreement. This Agreement, the RFQ, RFQ Response and the following Exhibits are all of the documents forming a part of the Agreement. The foregoing constitutes the entire agreement and understanding between the District and Engineer concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or verbal. The foregoing notwithstanding, in the event of conflict or inconsistency between the terms of this Agreement or the RFQ and the RFQ Response, this Agreement or the RFP, as applicable, shall control and govern. No term or condition of this Agreement shall be modified or amended except by writing executed by the District and Engineer.

IN WITNESS WHEREOF, the District and Engineer have executed this Agreement as of the date set forth above.

“District”

Imperial Community College District

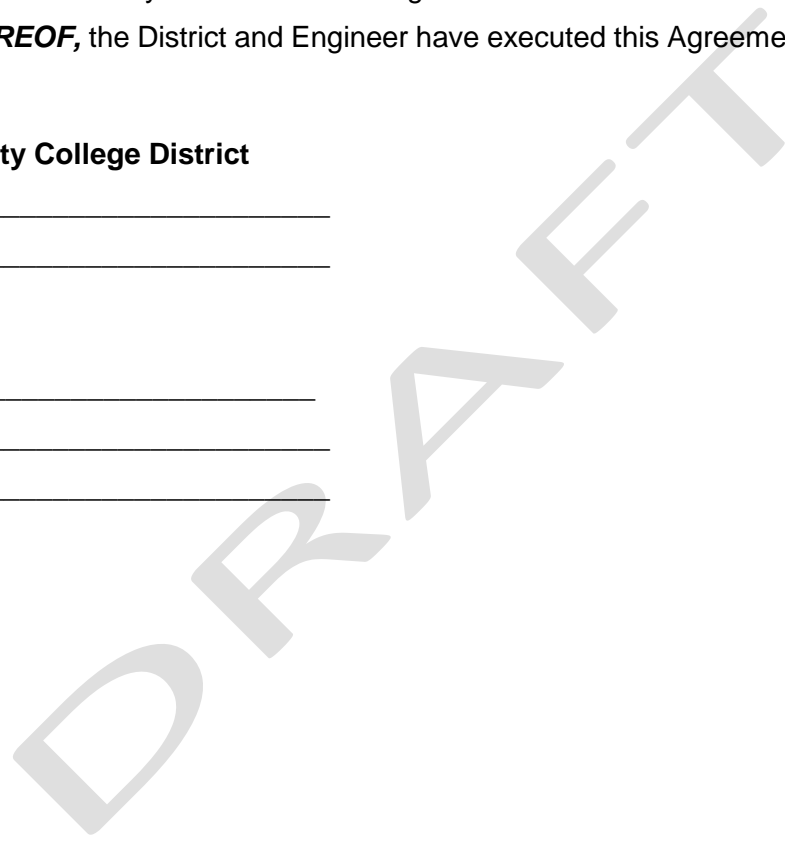
By: _____

Title: _____

“Engineer”

By: _____

Title: _____



**PROPOSAL
(RFQ Attachment C)**

Respondent: _____

The above-identified Respondent submits the following Proposal for completing mechanical engineering and related design professional services for the Imperial Valley College Building 1500 Replacement (“Project”)

1. Respondent’s Proposed Project Team

Project Executive	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Project Manager; Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Design Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Construction Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

2. Design Disciplines; Design Consultants. Complete the following to identify the employees of the Respondent or the Design Consultants the Respondent intends to retain for completing services necessary for the following design disciplines:

2.1. Mechanical Engineering.

To be completed by Respondent’s employees; provide details below:

Project Manager; Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Design Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Construction Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

2.2. Structural Engineering; if required.

To be completed by Respondent’s employees; provide details below:

Project Manager; Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
------------------------------	--

Design Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Construction Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

To be completed by Design Consultant to Respondent, provide details below.

Design Consultant	Name: _____ Address _____ _____ Phone _____ Contact Person _____
Project Executive	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Project Manager/Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

2.3. Electrical Engineering, if necessary.

To be completed by Respondent's employees; provide details below:

Project Manager; Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Design Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Construction Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

To be completed by Design Consultant to Respondent, provide details below.

Design Consultant	Name: _____ Address _____ _____ Phone _____ Contact Person _____
Project Executive	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

Project Manager/Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
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2.4. Plumbing Engineering, if necessary.

To be completed by Respondent's employees; provide details below:

Project Manager; Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Design Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Construction Phase Manager	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

To be completed by Design Consultant to Respondent, provide details below.

Design Consultant	Name: _____ Address _____ _____ Phone _____ Contact Person _____
Project Executive	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer
Project Manager/Job Captain	Name: _____ <input type="checkbox"/> California licensed architect <input type="checkbox"/> California registered engineer

3. **Proposed Price.** For completion of the Basic Services and other obligations of the Respondent under the Engineering Services Agreement, the Respondent proposes the following pricing methodology:

4. **Reimbursable Expenses.** The pricing methodology proposed in Paragraph 3 includes all costs, expenses and other charges for completing all Basic Services for an Assigned Project.

Yes No

If the Lump Sum Fixed Price proposed in Paragraph 3 does not include all fees, costs or expenses incurred to complete the Mechanical Engineering Services, the Respondent proposes billing the District for the following fees, costs or expenses incurred to complete obligations under the Engineering Services Agreement.

Travel.

Privately Owned Automobile Travel; Costs Per Mile. If personnel travel by a privately owned

automobile, the charge per mile traveled is ____ cents (____¢) per mile ("Mileage Charge").

Mileage Charges. The Mileage Charge billed to the District for travel by privately owned automobile will be for:

- Round Trip Travel
- One Way Travel

Airfare. If travel is by air, the charge is the actual costs of economy class airfare without mark-ups.

- Yes
- No, billings will be for costs plus ____ percent (____%) mark-up

Rental Car. If travel is by a rental car, the billing is the actual costs for an economy class rental car without mark-ups.

- Yes
- No, billings will be for costs plus ____ percent (____%) mark-up

Per Diem Expenses. If travel and overnight stay or more is required the per diem charge (excluding mileage, airfare charges or rental car charges) for lodging, meals and incidental expenses is:

Lodging _____ Dollars (\$_____) per day.
Meals _____ Dollars (\$_____) per day.
Incidental Expenses _____ Dollars (\$_____) per day.

Charges for Personnel Travel Time. If personnel travel, Respondent proposes to bill the District for travel time of personnel as follows:

- No travel charges for personnel travel (travel time included in Price Proposal).
- Flat rate travel charge for personnel travel of _____ Dollars (\$_____) per person travelling.
- Hourly rate charge for personnel travel at _____ Dollars (\$_____) per hour per person travelling.

If an hourly rate is proposed, the billings are for:

- Round Trip Travel
- One Way Travel
- Not Applicable, no travel charge proposed for personnel travel time.

Communications.

Phone/Fax Charges: _____
United States Mail Charges: _____
Private Courier/Overnight Service: _____
Other Communications Charges: _____

Production.

CAD/Plotting: _____
Reproduction.
Up to 11" x 14" size reproductions: _____
Quarter sheet reproductions: _____
Half-sheet reproductions: _____

Full sheet reproductions: _____

5. Additional Services. Set forth below the proposed hourly billing rates for Additional Services if the District authorizes any Additional Services.

Respondent Personnel Proposed Additional Services Hourly Billing Rates		
Name	Position/Title	Proposed Hourly Rate

(Duplicate as necessary for additional proposed personnel)

Design Consultant Personnel Proposed Additional Services Hourly Billing Rates	Design Consultant Name: _____	
	Name	Proposed Hourly Rate
	Position/Title	

(Duplicate as necessary for all proposed Design Consultants)

Acknowledgment and Confirmation. The Respondent has a full and complete understanding of the mechanical engineering services required for the Project. The Respondent certifies that all proposed personnel are duly certified, licensed, approved and otherwise qualified to complete obligations under the Engineering Services Agreement and the engineering services assigned to such personnel, if the Engineering Services Agreement is awarded to Respondent. The undersigned: (i) has reviewed and verified the accuracy and completeness of the foregoing Proposal and (ii) is authorized to bind and commit Respondent to the foregoing Proposal.

By: _____
(Signature of Respondent's Authorized Officer or Representative)

(Typed or Printed Name)

Title: _____