

# CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

REQUEST FOR PROPOSAL (RFP) No.: **18-19/01**

**FOOD SERVICES  
LAS POSITAS COLLEGE**



**Proposal Due:**

**April 12, 2019 at 2:00 pm**

**Return Proposals To:  
District Office  
Purchasing & Warehouse Services Department  
7600 Dublin Blvd., 3<sup>rd</sup> Floor  
Dublin, California 94568**

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**1. REQUEST FOR PROPOSAL**

The Chabot-Las Positas Community College District is requesting proposals from qualified food service management firms to provide food/beverages services for the cafeteria and at Las Positas College located at 3000 Campus Hill Drive Livermore, CA 94551.

With the vendor meeting or exceeding the qualification standards of the selection committee set forth in this RFP and providing the most responsive bid, the College shall enter into a contract for an initial term of three (3) years with an option to renew for an additional two years, provided the College receives satisfactory vendor performance.

**2. BACKGROUND AND GENERAL INFORMATION**

The Chabot-Las Positas Community College District is a public, two-year California Community College District founded in 1961 serving the San Francisco Bay Area, particularly southern Alameda County, through its two colleges: Chabot College in Hayward; and Las Positas College in Livermore. The Colleges specialize in providing education services for four-year university transfers, technical training, continuing education, contract education with local businesses and community cultural enrichment. The District serves in excess of 20,000 students and employs more than 1,200 faculty members and staff. A seven-member elected Board of Trustees sets policy for the District.

**LAS POSITAS COLLEGE**

Las Positas College is located 40 miles southeast of San Francisco, amid one of California's fastest growing regions for business, science, and technology. Gently rolling hills and picturesque vineyards provide the scenic background for the College's 147-acre campus. Las Positas College currently enrolls nearly 10,000 day and evening students. The College offers curriculum for students seeking career preparation, transfer to a four-year college or university, or personal enrichment.

**A. Las Positas College 2018 Population**

Students – 9,600  
Faculty and Staff - 420

Students, faculties and staff are culturally diverse and have a range of dietary needs and preferences.

**B. Proposed Food Service Hours**

<b>Fall &amp; Spring Semesters</b>	<b>Hours of Operation</b>
Monday - Thursday	7:00 am to 7:00 pm (grill closes at 2:45 pm)
Friday	7:00 am – 2:00 pm (grill closes at 1:45 pm)
Saturday/Sunday	Closed
<b>Summer Session</b>	
Monday - Thursday	7:00 am to 5:00 pm
Friday	7:00 am to 2:00 pm
Saturday/Sunday	Closed
<b>Fall, Spring &amp; Summer Break</b>	
	Closed

### 3. SCOPE OF SERVICES

#### A. Vendor Requirements:

- a. Provide food/beverage services for breakfast, lunch and dinner meals. Provide menu of food/beverage items available for sale at the college cafeteria which includes a sufficient variety of properly prepared food items with quality ingredients at reasonable pricing. Menu items shall routinely include ethnic foods consistent with the ethnicity of the college student body, vegetarian items, salads/salad bar and fast foods. For special District events or holidays, provide appropriate menu items relating to the special event or holiday as requested by the District.
- b. Post menu items along with pricing for all items. Such postings must be in neat and professional manner with no written signs used for displaying information. Hand written boards may be used for alternating daily menu items but such signs must be neat and orderly in appearance.
- c. Prior to commencement of the cafeteria operations, the contractor shall submit to the District its proposed menus and pricing schedule for review and approval.
- d. Any changes to the menu or pricing, both for routine and special events or holidays, should be submitted to the District for review and approval. In no event the District agree to food prices being raised without advance notice to the District. Justification for price increases must be provided. The District may also reasonably request modifications on menu items and pricing. The District may terminate the contract with the Contractor if prices escalate frequently or the prices are no longer reasonable to the students.
- e. Food menus should include healthy alternatives, such as oatmeal and low-fat milk during breakfast hours, and vegetarian and salad options during lunch hours.
- f. In addition to providing food items in the college cafeteria, the vendor may offer for sale in the District Cafeteria packaged food/snack items such as chewing gum, potato chips, candy and similar pre-package food/snack items. There should also be some healthy options in the snacks and packaged foods, such as nuts, granola bars, and low fat chips.
- g. Be solely responsible for the operation and management of the college cafeteria including, but not limited to:
  - Maintenance of the cafeteria (interior)
    1. Clean and maintain the food preparation areas including floors and walls within the kitchen.
    2. Furnish, at no cost to the District, all food preparation and service equipment and utensils, including, but not limited to, pots, pans, mixing bowls, and knives. Provide also supplies including, but not limited to, cups, plates, paper products, bags, trays, and others that may be required.
    3. Provide and maintain all fire and safety equipment.
    4. Provide pest control and exterminator services.
    5. Clean, collect and dispose trash within the food service facility.
    6. Coordinate with the District's Maintenance Department prior to performing any maintenance operations.
  - Management of contractor's personnel
    1. Thoroughly train personnel in all applicable aspects of the food and customer service.
    2. Provide the appropriate number of personnel per scheduled cafeteria hours. Provide back-up personnel when the regular persons are on vacation or ill.
    2. Ensure the contractor's personnel shall, at all times, dress in clean uniforms, polo shirts, or T-shirts with vendor logos, wear a hat or hair covering, and maintain personal hygiene.
    3. Ensure the contractor's personnel obey all campus laws and regulations including, but not limited to, driving under the speed limits, parking in designated lots, etc.

Management of Financial Transactions

1. Provide equipment to accommodate transactions using credit cards and debit cards.
2. Ring up all sales and provide a receipt to the customer.
3. Perform cash handling and collections in a professional manner at such frequencies that are consistent with proper security and accounting procedures. The District reserves the right to audit vendor's records of monies collected at any time.

h. Commission of Sales: Commencing on the fifteenth (15th) day of the first full calendar month after Contractor commencement of food/beverage service operations in the LPC Cafeteria and on the fifteenth (15th) day of each succeeding month during the Initial Term, Contractor shall make Monthly Payments to the Las Positas College in accordance with the following schedule: Five Percent (7%) of Monthly Revenue.

Monthly Revenue shall be defined as gross cafeteria and catering sales less sales tax.

j. Annual Payments. In addition to the Monthly Payments due pursuant to the foregoing, during the Initial Term of this Agreement, Contractor shall make Fixed Annual Commission Payments to the District in accordance with the following schedule:

Year of Term	Payment Due	Due Date of
One	Twelve Thousand Dollars	Thirty days after first day of
Two	Twelve Thousand Dollars	First anniversary after
Three	Twelve Thousand Dollars (\$12,000.00)	Second anniversary after Initial Annual
Four	Ten Thousand Dollars	Third anniversary after
Five	Twelve Thousand Dollars (\$12,000.00)	Fourth anniversary after Initial Annual

In the first twelve (12) months of the Initial Term and during any twelve (12) month period thereafter, including Extended Term(s), Contractor will make a contribution of four thousand and five hundred dollars (\$4,500.00) to Los Positas College for programs that enhance Student Success. Except for acknowledgment of the Contractor's contribution to LPC, the College shall have the sole discretion as to criteria for award of all or a portion of Contractor's contribution and the student(s), if any to whom all or any part of Contractor contribution is awarded.

Contractor's Transmittal of Payments. All payments due from Contractor shall be paid by check made payable to "Las Positas College" and delivered to:

Las Positas College  
Attn: Administrative Services 3000 Campus Hill Drive Accounts Payable Department  
Chabot-Las Positas Community College District  
7600 Dublin Blvd. 3<sup>rd</sup> Floor  
Dublin, CA 94568

The check and statement shall be received by the District not later than the fifteenth (15<sup>th</sup>) day of the month following the monthly commission reporting period.

- i. Maintain insurances – Provide copies of Certificates of Insurance for each policy of insurance set forth below:

<b>Required Insurance Policy Certificate</b>	<b>Minimum Coverage Amount</b>
Workers Compensation	In accordance with law
Employers Liability	Five Hundred Thousand Dollars (\$500,000)
Comprehensive General Liability (including property damage and automobile liability)	Five Hundred Thousand Dollars (\$500,000) per occurrence/ One Million Dollars (\$1,000,000) aggregate

**B. District will provide:**

- a. Electricity, lighting, natural gas, data and telephone lines, as part of the basic fee. District will provide basic maintenance for these utilities to the point of entry to the cafeteria space.
- b. Cafeteria seating for use by all customers.
- c. Rest room facility for use of all the contractor’s personnel.
- d. Reasonable janitorial and maintenance services for exterior area of the cafeteria space.

**C. Optional/Desirable Add-Ons:**

- a. Vendor may propose a commission.

**4. RFP SCHEDULE**

The following is the schedule of this RFP:

The District reserves the right to alter or amend the timetable below as required to conclude the process to the District’s satisfaction.

<b>Event</b>	<b>Date</b>
Proposal Due Date	<b>April 12, 2019</b>
Deadline for Submission of Request for Information	<b>April 8, 2019</b>
Addenda Issuance	<b>March 10, 2019</b>
Issuance of Award to the selected qualified vendor	<b>April 16, 2019</b>
Completion of Scope of Service	

**5. SUBMISSION OF RFP RESPONSE**

**A. Proposal Submittal**

- a. All Proposals must be submitted by mail to the following address, no later than 2:00 p.m. on April 12, 2019:

Marie Hampton, Purchasing Director  
Chabot-Las Positas Community College District  
7600 Dublin Blvd. 3<sup>rd</sup> Floor  
Dublin, CA 94568

- b. Proposal must be submitted in a sealed envelope including three (3) original hard copies *and* a complete electronic copy on a flash drive in Microsoft Word or PDF format. The total volume of the proposal may be no longer than twenty-five (25), 8 ½ X 11 pages (single or double sided). The face of the sealed envelope shall be clearly marked “FOOD SERVICES RFP \_\_\_\_\_.”

## B. RFP Format

- a. Cover Page – The cover page shall provide the name, physical address, e-mail address, and telephone number of the person(s) available for contact regarding the Proposal. Such person(s) must be authorized to make representations on behalf of the Respondent.
- b. Table of Contents – List the sections in Respondent’s Proposal and their corresponding page numbers.
- c. Organizational Structure - Describe your firm’s organizational structure. Supply the name or names of the individuals who will be working with the District, the roles and locations of each individual. Please provide brief resumes of these individuals.
- d. Relevant Experience – Provide details of your relevant experience which reflect the skills, knowledge, and other qualifications to successfully operate and manage a Community College cafeteria. Provide also your knowledge and understanding of food preparation and safety.
- e. Scope of Services – Response(s) addressing all the requirements stated in **Section 3**. Emphasis should be on clarity, brevity, and completeness of the response.
- f. Agreement - Please confirm in your RFP your firm’s willingness to enter into an agreement acceptable to the District.
- g. References - A list of similar projects relevant to this RFP which includes the name of the company and contact information.
- h. Non-Collusion Affidavit (Attachment 1) – By submittal and signing the response, the Responder is certifying that the response document is genuine and not a sham or collusive, and not made in the interest of any person not named and that the Responder has not induced or solicited others to submit a sham offer, or to refrain from responding.
- i. Drug-Free Workplace Certification – Contractor declare and certifies the provisions as set forth and the requirements of the California Government Code 8350 and the Drug Free Workplace Act of 1990.

## C. RFP Process

- a. No other collateral or reference materials should be submitted.
- b. This Request for Proposal does not commit the District to award a contract or to pay any costs incurred in the preparation of a response to this request.

- c. Cancellation/Amendments

The District reserves the right to cancel or amend this RFP by issuance of written addenda. If addenda to this RFP are issued, respondents must acknowledge receipt of addenda in their RFP responses and RFP responses must address materials/requirements relating to this RFP as described in addenda issued by the District. Failure to acknowledge and respond to any addenda issued by the District may render the Respondent’s RFP submittal to be deemed Non-Responsive and it may be rejected.

- d. Questions

Any questions or clarifications pertaining to this RFP by the Respondents will be considered by the District only if submitted in writing to (Name), (Position) by email at (Email Address) no later than 2:00 P.M. on Monday, March 18, 2019. Respondents may not rely upon any verbal response to respondent's questions or requests for clarification. All questions will be responded to in the form of an Addendum and will be emailed to the qualified proposers by March 21, 2019.

e. Rejection of Proposal

The District will reject summarily as Non-Responsive any RFP response which is submitted after the date/time set forth above or which is considered by the District in sole and absolute discretion as Non-Responsive to material requirements of the RFP.

f. Proposal is District Property

Public Records Act: By submittal and signing the response, responses to this Request for Qualifications will become the exclusive property of the District. All materials submitted will not be returned. At the time a vendor/firm is hired and the decision is made public, all documents shall be considered public records. Exceptions to this policy will be those elements in each response that are defined by your firm as business or trade secrets and marked "proprietary" "trade secret" or "Confidential". The District shall not be held responsible for the disclosure of any business or trade secrets that are not clearly identified.

g. Compliance with Laws and Regulations

The Responder shall comply with federal, state and local laws, regulations, and industry standards. The proposer shall also comply with the Drug-Free Workplace Act requirements of the California Government Code Section 8350 et seq.

**6. EVALUATION OF RESPONSES**

Responses will be evaluated based on the following criteria, not listed in order of importance:

<b>Evaluation Criteria</b>	<b>Points</b>
Response Completeness and Clarity	0-5
Background and Relevant Experience <ul style="list-style-type: none"> <li>- Management of a cafeteria facility similar in size, scope and operation</li> <li>- Knowledge and understanding of food services and regulations</li> <li>- Management of personnel</li> <li>- Quality control of product and service</li> </ul>	0-25
Cost Proposal/Commission	0-20
Financial Stability and Ability to Provide Insurance	0-20
Menus and Pricing (variety and healthy food choices)	0-20
Quality and strength of references	0-10



**7. ELECTION PROCESS**

The District retains the sole discretion to determine issues of compliance and to determine whether a submittal is responsive, responsible and qualified. The District's Review Committee will utilize several evaluation criteria but will be primarily focused on the Respondents' information provided in response to Section 3 of this RFP.

**8. AWARD PROCESS**

- A. As the basis of award the District intends to utilize the determination of "best qualified to provide the required services at a fair and reasonable price to the District." There is no guarantee expressed or implied that the District will provide work to all or any of the Respondents that submit a response to this RFP.
- B. District staff will notify the successful Respondent of the intention to enter into a successful agreement. The recommendation by the Selection Committee is not binding on the District. Formal award of any Agreement will only be affected after the District's Board of Trustees has formally approved of such award. The District reserves the right to waive minor irregularities in the solicitation process. The District may award one or more Contract(s), or no Contract, as a result of this solicitation.

**9. CONTRACT**

- A. The District reserves the right to enter into one contract, or award multiple contracts, for this work or related work. The District may select a firm or firms based on the highest rated response(s) and/or interview one or more firm(s) without further discussion or interviews with other firms. The District is not obligated to invite any or all finalists for an interview.
- B. If contractual agreement cannot be reached with the apparent successful firm(s), the District may cancel the award and negotiate with the next highest ranked Responder.

**\*\*\*END PAGE\*\*\***

# NON-COLLUSION AFFIDAVIT

STATE OF CALIFORNIA  
COUNTY OF \_\_\_\_\_

## RFP NO. 18-19/01 FOOD SERVICES – LAS POSITAS COLLEGE

I, \_\_\_\_\_, being first duly sworn, deposes and says  
(Typed or Printed Name)  
that I am the \_\_\_\_\_ of \_\_\_\_\_, the  
(Title) (Bidder Name)  
party submitting the foregoing Bid Proposal ("the Bidder"). In connection with the foregoing Bid Proposal, the undersigned declares, states and certifies that:

1. The Bid Proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization or corporation.
2. The Bid Proposal is genuine and not collusive or sham.
3. The bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any other bidder or anyone else to put in sham bid, or to refrain from bidding.
4. The bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the bid price, or that of any other bidder, or to fix any overhead, profit or cost element of the bid price or that of any other bidder, or to secure any advantage against the public body awarding the contract or of anyone interested in the proposed contract.
5. All statements contained in the Bid Proposal and related documents are true.
6. The bidder has not, directly or indirectly, submitted the bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any person, corporation, partnership, company, association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_  
(City, County and State)

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
Name Printed or Typed

\_\_\_\_\_  
(City, County and State)

(\_\_\_\_) \_\_\_\_\_  
(Area Code and Telephone Number)

### DRUG-FREE WORKPLACE CERTIFICATION

I, \_\_\_\_\_, am the \_\_\_\_\_ of \_\_\_\_\_  
(Print Name) (Title) (Contractor Name)

I declare, state and certify to all of the following:

- 1. I am aware of the provisions and requirements of California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990.
- 2. I am authorized to certify, and do certify, on behalf of Contractor that a drug free workplace will be provided by Contractor by doing all of the following:
  - A. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in Contractor's workplace and specifying actions which will be taken against employees for violation of the prohibition;
  - B. Establishing a drug-free awareness program to inform employees about all of the following:
    - (i) The dangers of drug abuse in the workplace;
    - (ii) Contractor's policy of maintaining a drug-free workplace;
    - (iii) The availability of drug counseling, rehabilitation and employee-assistance programs; and
    - (iv) The penalties that may be imposed upon employees for drug abuse violations;
  - C. Requiring that each employee engaged in the performance of the Contract be given a copy of the statement required by subdivision (A), above, and that as a condition of employment by Contractor in connection with the Work of the Contract, the employee agrees to abide by the terms of the statement.
- 3. Contractor agrees to fulfill and discharge all of Contractor's obligations under the terms and requirements of California Government Code §8355 by, inter alia, publishing a statement notifying employees concerning: (a) the prohibition of any controlled substance in the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the Work of the Contract be given a copy of the statement required by California Government Code §8355(a) and requiring that the employee agree to abide by the terms of that statement.
- 4. Contractor and I understand that if the District determines that Contractor has either: (a) made a false certification herein, or (b) violated this certification by failing to carry out and to implement the requirements of California Government Code §§8355, the Contract awarded herein is subject to termination, suspension of payments, or both. Contractor and I further understand that, should Contractor violate the terms of the Drug-Free Workplace Act of 1990, Contractor may be subject to debarment in accordance with the provisions of California Government Code §§8350, et seq.
- 5. Contractor and I acknowledge that Contractor and I are aware of the provisions of California Government Code §§8350, et seq. and hereby certify that Contractor and I will adhere to, fulfill, satisfy and discharge all provisions of and obligations under the Drug-Free Workplace Act of 1990.

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

Executed at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 2019  
(City and State)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Handwritten or Typed Name)

## CERTIFICATE OF WORKERS' COMPENSATION INSURANCE

I, \_\_\_\_\_ the \_\_\_\_\_ of  
(Name) (Title)

\_\_\_\_\_, declare, state and certify that:  
(Contractor Name)

1. I am aware that California Labor Code ' 3700(a) and (b) provides:

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

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

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

\_\_\_\_\_  
(Contractor Name)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Typed or printed name)

**Chabot-Las Positas Community College District**  
**General Provisions for Work and Services**  
**For Purchase Order # \_\_\_\_\_**

This Agreement for \_\_\_\_\_ services is made by and between \_\_\_\_\_  
(Contractor) and the **Chabot-Las Positas Community College District (District)** as of \_\_\_\_\_.

1. **TERM:** This Agreement is effective \_\_\_\_\_ and will continue until \_\_\_\_\_. The agreement may be extended if agreed to in writing by both parties. Either party may cancel this agreement with thirty (30) days written notice to the other party.
2. **SCOPE OF WORK:** Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to the District Services as described in the Purchase Order and/or Contractor's bid proposal and made a part of this Agreement. Contractor agrees to keep the District regularly informed of the progress of work performed under this Agreement. The District has the right to approve personnel assigned to perform these services.
3. **COMPENSATION:** The District will pay Contractor as specified in the Purchase Order. No increase in amount or scope of services is authorized without formal written amendment to this Agreement.
4. **TERMINATION:** This Agreement may be terminated by the District, at its sole discretion, upon ten (10)-day advance notice thereof to the Contractor or canceled immediately by written mutual consent. In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination.
5. **CONFLICTS OF INTEREST:** To avoid any potential conflict of interest problems, Contractor represents that it does not employ or retain the services of any spouse or family member of any District employees, nor has it furnished any financial compensation for the pursuit of business with the District.
6. **INDEPENDENT CONTRACTOR STATUS:** This Agreement is by and between the District and an independent contractor and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association. As an independent contractor, Contractor will be solely responsible for determining the means and methods for performing the services described herein. Contractor will assign the Contractors it proposes to use.

Contractor shall be responsible for deducting all federal, state and local income taxes, FICA and other charges, if any, to be deducted from the compensation of Contractor's employees. Nothing in this Agreement shall be interpreted as creating or establishing a relationship of employer and employee between the District and Contractor or any employee or agent of Contractor. Each and every person providing services to the District under this Agreement shall, at all times, remain an employee of Contractor. Contractor's employees shall not, at any time, or in any way, be entitled to sick leave, vacations, retirement, or other fringe benefits from the District, nor shall they be entitled to overtime pay from the District. Contractor is solely responsible for paying all necessary State or Federal tax for itself and its employees. The District will make no State or Federal unemployment insurance or disability insurance contributions on behalf of the Contractor and/or its employees. Neither Contractor nor its employees shall be included in the classified or faculty service, have any property rights to any position, or have any of the rights an employee of the District may otherwise have in the event of termination of this Agreement.

The District further understands and agrees that Contractor is engaged in an independent business and the District shall have no right to direct or control in any way or to any degree the manner of Contractor's performance hereunder. Contractor understands that it is not authorized and shall not make any agreement, contract or representation on behalf of the District or create any obligation, express or implied, on the part of the District.

7. **NON-ASSIGNABILITY**: This Agreement is not assignable by the parties hereto without the express advance written consent of the other party. If assigned, this contract shall inure to the benefit of, and be binding upon, the heirs, legal representatives, successors and assigns of each party hereto.
8. **HOLD HARMLESS AND INDEMNIFICATION**: The Contractor shall defend, save harmless and indemnify the District and its officers, agents and employees from all liabilities and claims for damages for death, sickness or injury to persons or property, including without limitation, all consequential damages, from any cause whatsoever arising from or connected with the operations or the services of the Contractor hereunder, resulting from the conduct, negligent or otherwise, of the Contractor, its agents or employees. The District shall defend, save harmless and indemnify the Contractor and its officers, agents and employees from all liabilities and claims for damages for death, sickness or injury to persons or property, including without limitation all consequential damages, from any cause whatsoever arising from or connected with the operations or the services of District hereunder, resulting from the conduct, negligent or otherwise, of District, its agents, servants, employees or subcontractors hereunder.
9. **FORCE MAJEURE**: Neither party to this Agreement will be liable to the other for any failure or delay in performance under this Agreement due to circumstances beyond its reasonable control including without limitation, Acts of God, accident, labor disruption, acts, omissions and defaults of third parties, and official, governmental and judicial action not the fault of the party failing or delaying in performance.
10. **COMPLIANCE WITH APPLICABLE LAWS**: Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder. Contractor represents and warrants to District that Contractor and its employees, agents, and any subcontractors shall, at their sole costs and expense, have all licenses, permits, qualifications, and approvals of whatsoever nature that is legally required to practice their respective professions and keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective business or profession.
11. **DAVIS-BACON ACT**: Contractor and any subcontractors working on the site of public works projects in excess of \$1,000 shall comply with the Davis-Bacon Act which establishes that paid wages are in accordance with the Prevailing Wage Rates as determined by the Department of Industrial Relations (DIR). In addition, submission of the Certified Payroll Records shall be in compliance with Senate Bill 854.
12. **PUBLIC WORKS CONTRACTOR REGISTRATION CERTIFICATE**: Pursuant to California Senate Bill 854, the qualified Contractor shall be registered with the California's Department of Industrial Relations (DIR) and its subcontractors who intend to bid or perform work on any public works project, as defined under Labor Code §1720, 1771, 1774-1776, 1777.5, 1813 and 1815. The qualified Contractor shall sign and deliver to the District the form of Public Works Contractor Registration Certification included with the Agreement Documents.
13. **LICENSES & ASSURANCES**: Contractor assures that Contractor possesses the required licenses or expertise to perform all the services which it has agreed to perform pursuant to this Agreement. Contractor shall maintain appropriate or required licensure in full force and effect during the term of this Agreement.
14. **NON-DISCRIMINATION**: Contractor agrees that it will not unlawfully discriminate on the basis of race, color, religion, gender, national origin, age or medical condition, sexual orientation or marital status or any other characteristic protected by law in the delivery of programs or services set forth herein.
15. **WARRANTY**: Contractor shall diligently and carefully perform all work required hereunder in a good and workmanlike manner according to the standards observed by a competent practitioner of the profession in which Contractor is engaged in the geographical area in which Contractor practices its profession, and shall furnish all labor, supervision, materials, equipment and supplies necessary therefore.

16. **INSURANCE**: Contractor shall at all times during the term of this Agreement, or any extension thereof, maintain comprehensive general liability insurance with combined single limit coverage of not less than One Million Dollars (\$1,000,000) per occurrence and in the aggregate for all claims made during any one policy year. Such insurance will be maintained with an insurance company or companies authorized to do insurance business in the State of California, or by a system of self-insurance. Contractor shall, upon request of the District, provide Certificate of Insurance proof that the services provided are covered under its policy and that the District is named or fully covered as an additional insured.
17. **DEBARMENT, SUSPENSION, AND OTHER REPRESENTATION**: Contractor certifies as required by Executive Order 12549, that Contractor and its principles are not presently debarred, suspended, proposed for debarment, declared intelligible, or voluntarily excluded from covered transactions by any federal department or agency, are not presently indicted, criminally or civilly charged by a governmental entity, and have not, within a three (3) year period preceding this Agreement, been convicted or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining or performing a public transaction or contract, or had one or more public transactions terminated for cause or default, nor have any appropriated funds been paid by or on behalf of the Contractor to any person for influencing or attempting to influence any employee or officer of the federal government or in connection with making of any federal grant or cooperative agreement
18. **DRUG-FREE WORKPLACE CERTIFICATION**: In accordance with California Government Code §§8350 et seq., the Drug Free Workplace Act of 1990, the qualified Contractor will be required to execute a Drug Free Workplace Certificate concurrently with execution of the Labor and Material Contract. The qualified Contractor will be required to implement and take the affirmative measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. Failure of the qualified Contractor to comply with the measures outlined in the Drug Free Workplace Certificate and in California Government Code §§8350 et seq. may result in penalties, including without limitation, the termination of the Contract, the suspension of any payment of the Contract Price otherwise due under the Contract Documents and/or debarment of the qualified Contractor.
19. **WORKER'S COMPENSATION INSURANCE**: Pursuant to California Labor Code §3700 Contractor agrees to comply fully with all provisions of all applicable workers' compensation insurance laws, and shall procure and maintain in full force and effect worker's compensation insurance covering its partners, employees and agents while said persons are performing services pursuant to this Agreement. In the event that an employee of Contractor performing this Agreement files a worker's compensation claim against the District, Contractor agrees to defend and hold the District harmless from such claim.
20. **ENTIRE AGREEMENT; NO WAIVER**: This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no warranties, representations or other agreements between the parties in connection with the subject matter hereof, except as specifically set forth herein. Except as otherwise provided by this Agreement, no supplement, modification, waiver or termination of this Agreement shall be binding unless executed in writing by the parties to be bound thereby. A waiver of any breach or any of the covenants, terms or provisions of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other covenant, term or provision. When there is a conflict between the Contractor's bid proposal Terms and Conditions and the District's, the District's shall supersede.
21. **OWNERSHIP OF WORKS FOR HIRE**: All matters produced under this Agreement shall be works for hire and shall become the sole property of the District. Said works cannot be used for any other client or purposes without the District's expressed written permission. District shall have all right, title and interest in said matters, including the right to obtain and maintain the copyright, trademark, and/or patent of said matters in the name of the District.

22. **GOVERNING LAW:** This Agreement shall be governed by and construed in accordance with the laws of the State of California.
23. **VENUE:** In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
24. **NO THIRD PARTY BENEFICIARIES:** Nothing in this Agreement shall be construed to create any duty, standard of care, or liability to anyone other than the Parties to this Agreement. No one is an intended third-party beneficiary of this Agreement.
25. **ATTORNEYS FEES:** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
26. **HEADINGS OR CAPTIONS:** Headings or captions used herein as headings of the various paragraphs and subparagraphs hereof are for convenience only, and the parties agree that such captions are not to be construed as a part of the Agreement or to be used in determining or construing the intent or context of this Agreement.
27. **EXECUTION IN COUNTERPARTS:** This Agreement may be executed in any number of counterpart copies, all of which shall constitute one and the same Agreement and each of which shall constitute an original.
28. **SEVERABILITY:** If any of the provisions or portions thereof of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions or portions thereof shall not be affected thereby.