



## REQUEST FOR QUALIFICATIONS AND PROPOSALS (RFQ/P)

### PROFESSIONAL SERVICES (Strategic Planning)

#### RFQ/P RESPONSE SCHEDULE SUMMARY:

Date	Event
June 10, 2022	Release of RFQ/P
June 14, 2022, 3:00 PM	Deadline to submit written questions
June 15, 2022, 3:00 PM	Deadline for District to answer written questions
<b>June 21, 2022, 2:00 PM</b>	<b>Deadline to submit Submittals</b>
Week of June 27, 2022	Interview of Qualified/Short Listed Respondents
July 14, 2022	Notification to Selected Respondent

The District reserves the right to change the dates on the schedule without prior notice.

**RFQ/P FOR PROFESSIONAL SERVICES**  
STRATEGIC PLANNING

**NOTICE IS HEREBY GIVEN** that Miller Creek School District (“District”) is requesting qualified persons, firms, partnerships, corporations, associations, or professional organizations to provide comprehensive professional services with respect to strategic planning and preparation of related reports both on the impact of community development on the District’s schools, as further described below.

Respondents to this RFQ/P should email their Statement of Qualifications (“SOQ”) and Proposal (together, “Submittal” or “SOQ/P”), as further described herein, to:

**Miller Creek School District**  
**Attn: Becky Rosales, Superintendent**

Emails to be issued to: [brosales@millercreeksd.org](mailto:brosales@millercreeksd.org),  
and copied to: [john@greystonewest.com](mailto:john@greystonewest.com)

The **electronic copy, issued via email**, will only be accepted in the program as PDF.

**ALL RESPONSES ARE DUE BY 2:00 P.M., ON June 21, 2022.** Any Submittal received after that date and time will not be accepted and will be returned unopened.

Each Submittal must conform and be responsive to the requirements set forth in this RFQ/P.

The District reserves the right to waive any informalities or irregularities in received Submittals. Further, the District reserves the right to reject any and all submittals and to negotiate contract terms with one or more respondent firms for one or more of the work items. The District retains the sole discretion to determine issues of compliance and to determine whether a respondent is responsive, responsible, and qualified. **RESPONDENT IS RESPONSIBLE FOR READING THIS RFQ/P IN ITS ENTIRETY.**

**Consulting firm shall comply with all applicable federal, state and local laws regarding COVID-19, including Vaccination and Testing Requirements.**

If you have any questions regarding this RFQ/P please call or email John Dilena at 707-933-0624 or [john@greystonewest.com](mailto:john@greystonewest.com) before 3:00 p.m. on June 14, 2022. Answers will be posted on the District website by 3:00 p.m. on June 15, 2022.

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**RFQ/P FOR PROFESSIONAL SERVICES**  
STRATEGIC PLANNING SERVICES

**I. BACKGROUND**

Miller Creek School District ("District") is an elementary district serving the northern San Rafael community of Terra Linda, Marinwood, Lucas Valley and a portion of Contempo Marin. It was founded in 1864 as Dixie School District, making it one of the oldest school districts in Marin County. The District includes three elementary schools for transitional kindergarten through 5th grades: Dixie School, Vallecito School and Mary E. Silveira School. Sixth through eighth graders attend Miller Creek Middle School, several leased sites as well as the District Office. District enrollment is approximately 2,000. Class sizes in the current year average 22 students in kindergarten through third grade, 25 students in grades four and five, and 26 to 30 in grades six through eight. The District is within the San Rafael High School District and most Miller Creek graduates attend Terra Linda High School.

The District invites any qualified firm to submit SOQs and Proposals related to its ability to provide the strategic planning services described herein for the District. In general, the firm(s) selected as a result of this process will be placed either in a pool of qualified firms for future consideration to provide strategic planning services to the District or will be outright selected.

**II. GENERAL INFORMATION**

**A. Limitations**

This RFQ/P is not a formal request for bids, nor an offer by the District to contract with any party responding to this RFQ/P. The District reserves the right to reject any and all responses, and likewise, the District reserves the right to contract with any entity responding to this RFQ/P. The District also reserves the right to amend this RFQ/P as necessary. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District shall in no event be responsible for the cost of preparing a response to this RFQ/P. The awarding of a contract, if at all, is at the sole discretion of the District.

The District reserves the right to reject any or all Submittals, to waive any irregularities or informalities not affected by law, to evaluate each Submittal submitted, and to award contracts, if any, according to the Submittals which best serves the interest of the District at a reasonable cost to the District. Any contract(s) resulting from this RFQ/P, however, will be made according to the form of the professional services agreement attached to this RFQ/P as **Attachment "1"**.

The Respondent's Submittal package, and any other supporting materials submitted to the District in response to this RFQ/P will not be returned and will become the property of the District unless portions of the materials are designated as proprietary at the time of submittal, and are specifically requested to be returned. Vague designations and/or blanket statements regarding entire pages or documents are insufficient and will not bind the District to protect the designated matter from disclosure. Pursuant to *Michaelis, Montanari, & Johnson v. Superior Court* (2006) 38 Cal.4th 1065, SOQ/P packages shall be held confidential by the District and shall not be subject to disclosure under the California Public Records Act until after either: (1) the District and the successful Respondent have completed negotiations and entered into an agreement, or (2) the District has rejected all responses. Furthermore, the District will have no liability to the Respondent or other party as a result of any public disclosure of any SOQ/P package.

The selected Firm and any of its subconsultants shall comply with all applicable federal, state, and local laws regarding COVID-19, including vaccination and testing requirements.

**B. Restrictions on Lobbying and Contacts**

From the period beginning on the date of the issuance of this RFQ/P and ending on the date of the award of the contract, no person, or entity responding to this RFQ/P, nor any officer, employee, representative, agent, or consultant representing such a person or entity shall contact through any means or engage in any discussion regarding this RFQ/P, the evaluation or selection process/or the award of the contract(s) with any member of the District's Governing Board ("Board"), selection committee members, or with any employee of the District except for clarifications and questions as described herein. Any such contact shall be grounds for the disqualification of the entity submitting a SOQ/P.

**C. Full Opportunity**

The District hereby affirmatively ensures that Disadvantaged Business Enterprises ("DBE"), Small Local Business Enterprises ("SLBE"), Small Emerging Local Business Enterprises ("SELBE"), and Disabled Veterans Business Enterprises ("DVBE") shall be afforded full opportunity to submit in response to this RFQ/P. No Respondent will be discriminated against on the basis of race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national origin, medical condition or disability in any consideration leading to the award of the contract.

**D. Pool of Qualified Applicants and Recertification**

The District will maintain a pool of qualified applicants who respond to this RFQ/P. Requests for recertification may be sent every two (2) years. Firms who do not reply to the request for recertification may be deleted from the pool of prequalified firms, at the sole discretion of the District. Additional firms may be added to the pool, at the District's sole discretion, as the District determines the need for additional services.

**III. SCOPE OF SERVICES**

**A. District Needs**

Any firm selected based on this RFQ/P process must be capable of providing full strategic planning services in accordance with the District's form of the professional services agreement attached to this RFQ/P as **Attachment "1"**. Firm(s) will be selected based on proposals, qualifications and demonstrated competence in providing strategic planning services that may include, but not be limited to, the following:

- Review Tentative Map filings and General Plan Amendments at City of San Rafael and County of Marin to quantify pending development within the district
- Analyze demographics study and enrollment projections to determine potential impacts
- Study the existing school enrollment boundaries and project the growth at each site ....
- Determine the current capacity and the potential for expansion at each site
- Quantify the modernization / new construction needs at each site including potential of reopening leased sites and District Office.
- Review Needs Analysis and Construction Cost Estimates by others.
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- Prepare and present a final report to the Board of Trustees outlining anticipated growth and defining strategies on how to fund the expansion / modernization required to accommodate.

**B. Work Schedule**

Strategic planning services are to commence upon proposal acceptance by the District based on an agreed upon timeline. The strategic planning report shall be delivered no later than September 12, 2022.

The firm is required to attend the District Board Meeting(s) at a date TBD to present informational updates, the strategic planning report to the Board and answer questions.

**IV. REQUIRED INFORMATION AND FORMAT**

Firms responding to this RFQ/P must comply with the following format requirements. Submittal material must be in 8-1/2 x 11 inch format.

Respondents shall provide: email of Proposal/qualifications

- The **electronic copy, issued via email**, will only be accepted in the following programs: PDF. Emails to be issued to: [brosales@millercreeksd.org](mailto:brosales@millercreeksd.org), and copied to: [john@greystonewest.com](mailto:john@greystonewest.com)

The Submittal is to demonstrate the qualifications, competence, and capacity of the firm, as well as specify the report approach in conformance with all federal, state, District, and local requirements. All Submittals shall address the following items in the order listed below:

**A. Cover Letter**

Provide a letter of introduction signed by an authorized officer of the Respondent firm **not to exceed two (2) pages**. The Cover Letter shall include all of the following:

- Include a brief description of why Respondent is well suited for, and can meet, the District’s needs.
- Clearly identify the individual(s) who are authorized to speak for the Respondent during the evaluation process.
- Include one (1) of the following statements:
  - “[INSERT RESPONDENT’S NAME] received a copy of the District’s form of Independent Consultant Agreement for Special Services (“Agreement”) attached as Attachment “1” to the RFQ/P. [INSERT RESPONDENT’S NAME] has reviewed the indemnity provisions and insurance provisions contained in the Agreement. If given the opportunity to contract with the District, [INSERT RESPONDENT’S NAME] has no objections to the use of this Agreement.”

OR

- “[INSERT RESPONDENT’S NAME] received a copy of the District’s form of Independent Consultant Agreement for Special Services (“Agreement”) attached as Attachment “1” to the RFQ/P. [INSERT RESPONDENT’S NAME] has reviewed the indemnity provisions and insurance provisions contained in the Agreement. If given the opportunity to contract with the District, [INSERT RESPONDENT’S NAME] has objections to the use of this Agreement, listed in detail in the Appendix to this Submittal.”

- Respondent shall certify that no official or employee of the District, nor any business entity in which an official of the District has an interest, has been employed or retained to solicit or assist in the procuring of the resulting contract(s), nor that any such person will be employed in the performance of any/all contract(s) without immediate divulgence of this fact to the District.
- Respondent shall certify that no official or employee of Respondent has ever been convicted on an ethics violation.
- Respondent must include evidence that Respondent is legally permitted to conduct business in the State of California, and is properly licensed, if applicable, to perform the Services.
- Respondent shall state the validity of the irrevocable Proposal through **December 31, 2022**.
- Respondent shall sign and add the following language: "By virtue of submission of this Statement of Qualifications/Proposal, [INSERT RESPONDENT'S NAME] declares that all information provided is true and correct."

**B. Firm Information**

This section should provide a brief description of the firm, including:

- Firm name.
- Address.
- Telephone number.
- Website.
- Name and **email** of main contact.
- Federal Tax Identification Number.
- License or Registration Number, if applicable.
- Type of organization (e.g., corporation, partnership, etc.). If a joint venture, describe the division of responsibilities between participating companies, offices (location) that would be the primary participants, and percentage of interest of each firm.
- A brief description and history of Respondent, including number of years the firm has been in business, and the date the firm was established under its given name.
- Number of employees (licensed professionals, technical support), and names and titles of officers of the firm.
- Location of the office where the bulk of services solicited will be performed.
- State of California certification for Respondent of Small Business or Disabled Veteran Business Enterprise status, if any.

**C. Relevant Qualifications**

This section should provide a brief statement of interest and qualifications for providing the requested strategic planning services, including:

- 1. Personnel:** Submit resume(s) or profiles of the individuals who will be tasked to provide the requested services, including a brief description of their qualifications and recent related experience providing similar services.

**2. Past Performance:** Provide a description of past performances of similar services for public K-12 school districts and related experience. Please include:

- A list of five (5) school district client references that include:
  - District name and the name of the main contact person, title, telephone number, and email address to be contacted for a reference.
  - The date(s) of the work performed (preferably within the past 3 years).
  - The scope of the work performed.
  - Identify key individuals of the Firm involved and their role.
- One (1) recent Strategic Planning Report prepared by your firm for a school district client.

**D. Litigation History/Disciplinary Action**

**1. Litigation:** Provide a comprehensive five (5) year summary of the Respondent’s litigation, arbitration, mediation, and negotiated/settlement history with previous clients. State the issues in the litigation, the status of the litigation, names of parties, and outcome. (A Submittal that fails to provide the requested information on lawsuits or litigation, and responses which assert attorney-client privilege and fail to provide information requested, will be considered non-responsive, disqualified from the selection process, and will not be evaluated.)

**2. Disciplinary Action:** Provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past five (5) years with state regulatory bodies or professional organizations.

**E. Form of Agreement**

Any Respondent selected based on this RFQ/P process must be able to execute the District’s Independent Consultant Agreement for Special Services (“Agreement”), which is distributed with this RFQ/P as **Attachment “1”** and incorporated herein by this reference. Any objections/proposed changes to the form of the Agreement shall be stated in writing in the Submittal. An explanation of the objection and proposed revised language shall be provided. The District will not consider any objections/proposed changes to the Agreement that are raised after the deadline for submittals.

**F. Fee Proposal**

The Fee Proposal shall include the following items, which fees shall be valid until **December 31, 2022**:

- **Strategic Planning Services:** The proposed maximum fee (inclusive of all fees, indirect and direct costs, overhead, expenses, general administrative costs, mileage and travel, reimbursables, materials, labor, and reasonable profit) for the performance of all services in connection with the preparation of a [Strategic Planning Report] (inclusive of all meeting attendance, notices, required documents and reports, hearings, analyses, calculations, publications, responses to questions, communications, and mailings required to satisfy legal (statutory and case law), public review, notice, public hearing, and adoption processes and requirements in

conformance with industry-wide accepted best practices). Please state whether the proposed maximum fee is a Flat Rate Fee for the Services, or a Not-To-Exceed Fee for the Services.

- **Schedule of Rates:** Schedule shall include hourly rates by position (as proposed), staffing plan (as proposed), and reimbursable schedule (as proposed).

## **V. SELECTION PROCESS**

### **A. Criteria**

All Submittals received by the specified deadline will be reviewed by the District for content, including but not limited to proposed fees, related experience, and professional qualifications of the Respondents.

The District will evaluate all Submittals. Each Submittal must be complete. Incomplete Submittals will be considered nonresponsive and grounds for disqualification. The District retains the sole discretion to determine issues of compliance and to determine whether a Respondent is responsive, responsible, and qualified. Based upon the information presented in the Submittals, the District may elect to conduct interviews with some or all of the Respondents. After the interviews, if any, the District will identify the Respondent(s) that can provide the greatest overall benefit to the District for inclusion in a pool of qualified firms for future consideration to provide strategic planning services.

The criteria for evaluating submissions may include, without limitation, the following:

- Experience and performance history of the Respondent with similar services and clients;
- Experience and results of proposed personnel;
- References from clients contacted by the District;
- Technical capabilities and track record of use;
- Cost and value of services under proposed fees;
- Overall responsiveness of the Submittal;
- The Respondent's approach to, and understanding of, the services;
- Previous District experience with the Respondent; and
- Other qualifications/criteria, as deemed appropriate in the District's sole discretion.

The District will require the selected firm to maintain general liability (minimum \$1,000,000 per occurrence / \$2,000,000 aggregate) with additional endorsement page naming the District as additionally insured, automobile insurance, professional liability and worker's compensation insurance.

### **B. District Investigations**

The District may perform investigations of Respondents that extend beyond contacting the references identified in the Submittals. The District may request a Respondent to submit additional information pertinent to the review process. The District also reserves the right to investigate and rely upon information from other available sources in addition to any documents or information submitted.

### **C. Interviews**

The District, at its sole discretion, may elect to interview selected Respondent(s). The District may elect to interview one or more Respondents. If a Respondent is requested to come for an interview, the key proposed staff will be expected to attend the interview. The interview will be an opportunity for the District's Selection Committee to review the Respondent's proposal and other matters the committee deems relevant to its evaluation. **Any comments or proposed changes to the form of Agreement attached hereto as Attachment "1" may be the subject of inquiry at the interview.**

**D. Final Determination and Award**

The District reserves the right to contract with any entity responding to this RFQ/P for all or any portion of the work described herein, to reject any Submittal as non-responsive, and/or not to contract with any Respondent for the services described herein. The District makes no representation that participation in the RFQ/P process will lead to an award of contract or any consideration whatsoever. The District reserves the right to contract with any firm not participating in this process. The District shall in no event be responsible for the cost of preparing any Submittal in response to this RFQ/P, including any supporting materials.

Awarding of contract(s) is at the sole discretion of the District. The District may, at its option, determine to award contract(s) only for portions of the scope of work identified herein. In such case, the Respondent(s) will be given the option not to agree to enter into the contract and the District will retain the right to negotiate with any other Respondent selected as a finalist. If no finalist is willing to enter into a contract for the reduced scope of work, the District will retain the right to enter into negotiations with any other Respondent to this RFQ/P.

**ATTACHMENT 1**

FORM OF AGREEMENT

**INDEPENDENT CONSULTANT AGREEMENT FOR SPECIAL SERVICES  
(Strategic Planning Services)**

This Independent Consultant Agreement for Special Services ("Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2022 ("Effective Date"), by and between the Miller Creek School District, a California public school district ("District"), and \_\_\_\_\_ ("Consultant"), (together, "Parties").

RECITALS

WHEREAS, Government Code section 53060 authorizes District to contract with and employ any person for the furnishing of special services and advice in financial, economic, accounting, legal, or administrative matters if such person is specially trained and experienced and competent to perform the special services required;

WHEREAS, Consultant is specially trained and experienced and competent to perform the services required by District, and those services are needed on a limited basis; and

WHEREAS, Consultant is free from the control and direction of District in connection with the performance of the Services (as defined below), both under the Agreement and in fact; Consultant's Services are outside the usual course of District's business; and Consultant is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services.

NOW, THEREFORE, the Parties agree as follows:

TERMS

1. **Services.** Consultant shall provide strategic planning services as further described in **Exhibit A**, attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing the Services under this Agreement upon execution of the Agreement by both parties and will diligently perform such Services as required. The term for Services and schedule to provide Services shall be in accordance with the schedule included in **Exhibit A** attached hereto.
3. **Submittal of Documents.** Consultant shall not commence the Services under this Agreement until Consultant has submitted and District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

- X   Signed Agreement
- X   Workers' Compensation Certification
- X   Fingerprinting/Criminal Background Investigation Certification
- X   Insurance Certificates and Endorsements
- X   W-9 Form
- X   COVID-19 Vaccination/Testing Certification

4. **Compensation.** District compensation to the Consultant shall be as set forth in **Exhibit A** as the proposed fee for services, but in no event shall total fees, costs, and expenses exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) without the express written approval of the District's Board of Education. District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, other than as provided in **Exhibit A**. Consultant shall invoice the District for services rendered. Invoices must include invoice number, invoice date, dates of service, detailed description of service, Purchase Order number, payment rate, total payment due, remit to address, vendor name and contact information.
5. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement ("Equipment"). Notwithstanding the foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Consultant or Consultant's agents, personnel, employee(s), and/or subconsultant(s), even if such Equipment is furnished, rented or loaned to Consultant by the District.
6. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant represents and warrants that: (A) Consultant is free from the control and direction of District in connection with the performance of the Services, both under the Agreement and in fact; (B) Consultant's Services are outside the usual course of District's business; and (C) Consultant is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the Services.

Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of District, and are not entitled to benefits of any kind or nature normally provided employees of District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. By checking the applicable box below, Consultant hereby represents and warrants to District the following:

- Consultant is and shall be a resident of the State of California or is otherwise exempt from withholding. To the extent an exemption is sought, Consultant will provide District with appropriate evidence including, without limitation, FTB Form 590. Consultant shall still be responsible for payment of all state and federal taxes.
- Consultant is not a resident of the State of California or otherwise not exempt from withholding, and Consultant authorizes District to withhold from all payments made to Consultant under this Agreement all taxes required to be withheld by law. (See, e.g., California Revenue & Taxation Code section 18661 et seq.)

7. **Performance of Services.**

- 7.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District in accordance with generally and currently accepted principles and practices of its profession for services to California school districts.

- 7.2. **Safety and Security.** Consultant is responsible for maintaining safety in the performance of this Agreement.
- 7.3. **Originality of Services.** Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepare for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
- 7.4. **Copyright/Trademark/Patent.** Consultant understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all rights, titles and interests in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Consultant consents to the use of Consultant's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
- 7.5. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.

## 8. Termination.

- 8.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Consultant. Notice shall be deemed given when received by Consultant or no later than three (3) calendar days after the day of mailing, whichever is sooner.
- 8.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include material violation of this Agreement by Consultant; or any act by Consultant exposing District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate.

**9. Insurance.**

9.1. Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

<b>Type of Coverage</b>	<b>Minimum Requirement</b>
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments in the form of Comprehensive General Liability and Contractual Liability. Each Occurrence General Aggregate	 \$ [1,000,000] \$ [2,000,000]
<b>Automobile Liability Insurance - Any Auto</b> Single Combined Limit	\$ [1,000,000]
<b>Professional Liability Insurance</b>	\$ [1,000,000]
<b>Workers' Compensation and Employers' Liability Insurance</b>	Statutory Limits

9.2. **Proof of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to District and approved by District. Likewise, upon request, Consultant shall furnish the certificates to District showing maintenance of the required insurance coverage and original endorsements.

9.3. **Other Insurance Provisions.** Each insurance policy shall contain, or be endorsed to contain, the following provisions:

(a) Endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf.

(b) The District, its Board, members of its Board, representatives, consultants, trustees, officers, officials, employees, agents, and volunteers ("Additional Insured") are to be covered as Additional Insureds as respects to liability arising out of activities performed by or on behalf of the Consultant; instruments of Service and completed operations of the Consultant; premises owned, occupied or used by the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant. The coverage shall contain no special limitations on the scope of protection afforded to the Additional Insureds.

(c) For any claims related to the Services, the Consultant's insurance coverage shall be primary insurance as respects to the Additional Insureds. Any insurance or self-insurance maintained by the Additional Insureds shall be in excess of the Consultant's insurance and shall not contribute with it.

(d) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the Additional Insureds.

(e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

(f) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District.

**10. Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of District and all federal, state, and local laws, ordinances and regulations. If Consultant performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Consultant shall bear all costs arising therefrom.

**10.1. Permits/Licenses.** Consultant and all of Consultant's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services in the State of California pursuant to this Agreement.

**10.2. COVID-19 Vaccination and Testing Requirements**

*(a) Vaccination Requirements.*

Consultant shall fill out, sign, date and submit to District the COVID-19 Vaccination/Testing Certification Form, attached hereto as Attachment "A."

According to the August 11, 2021, California Department of Public Health ("CDPH") State Public Health Officer Order ("Order"), a person is "fully vaccinated" for COVID-19 if two weeks or more have passed since they have received the second dose in a 2-dose series (Pfizer-BioNTech or Moderna or vaccine authorized by the World Health Organization), or two weeks or more have passed since they received a single-dose vaccine (Johnson and Johnson[J&J]/Janssen). If the definition of "fully vaccinated" subsequently changes to include booster shots, said updated definition shall be incorporated herein.

Pursuant to the CDPH Guidance for Vaccine Records Guidelines & Standards, Consultant shall only accept the following as proof of vaccination:

- (1) COVID-19 Vaccination Record Card (issued by the Department of Health and Human Services Centers for Disease Control & Prevention or WHO Yellow Card) which includes name of person vaccinated, type of vaccine provided and date last dose administered);
- (2) a photo of a Vaccination Record Card as a separate document;
- (3) a photo of a Vaccination Record Card stored on a phone or electronic device;
- (4) documentation of COVID-19 vaccination from a health care provider;
- (5) digital record that includes a QR code that when scanned by a SMART Health Card reader displays to the reader name, date of birth, vaccine dates and vaccine type; or
- (6) documentation of vaccination from other contracted employers who follow these vaccination records guidelines and standards.

In the absence of knowledge to the contrary, Consultant may accept the documentation presented in (1) through (6) above as valid.

Consultant shall have a plan in place for tracking verified Consultant personnel vaccination status. Records of vaccination verification must be made available, upon request, to the local health jurisdiction for purposes of case investigation.

Consultant personnel, including any and all tiers of subconsultant, supplier, and any other personnel entering District property, who are not fully vaccinated, or for whom vaccine status is unknown or documentation is not provided, must be considered unvaccinated.

*(b) Weekly Testing Requirements.*

Consultant shall ensure that Consultant personnel, including any and all tiers of subconsultant, supplier, and any other worker entering District property, who are

unvaccinated or who are not fully vaccinated are required to undergo diagnostic screening testing, as specified below:

(1) Consultant personnel may be tested with either antigen or molecular tests to satisfy this requirement, but unvaccinated or incompletely vaccinated workers must be tested at least once weekly with either PCR testing or antigen testing. Any PCR (molecular) or antigen test used must either have Emergency Use Authorization by the U.S. Food and Drug Administration or be operating per the Laboratory Developed Test requirements by the U.S. Centers for Medicare and Medicaid Services.

(2) Unvaccinated or not fully vaccinated Consultant personnel must also observe all other infection control requirements, and are not exempted from the testing requirement even if they have a medical contraindication to vaccination, since they are still potentially able to spread the illness. Previous history of COVID-19 from which the individual recovered more than 90 days earlier, or a previous positive antibody test for COVID-19, do not waive this requirement for testing.

Consultant shall have a plan in place for tracking test results and conducting workplace contact tracing, and must report results to local public health departments, if applicable.

(c) *Mandatory Compliance with Federal, State and Local Laws.*

Consultant shall continue to comply with all applicable federal, state and local laws regarding COVID-19. Further, except to the extent the Order provides otherwise, Consultant and Consultant personnel shall continue to comply with all other applicable terms in the CDPH's State Public Health Officer Orders.

**11. Fingerprinting.** The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to Consultant's performing of any portion of the Services. Consultant expressly acknowledges that the following conditions shall apply to any work performed by Consultant and/or Consultant's employees on a school site:

- 11.1. All site visits shall be arranged through the District;
- 11.2. Consultant and Consultant's employees shall inform District of their proposed activities and location at the school site, allowing District time to arrange site visits without a disruption to the educational process;
- 11.3. Consultant and/or Consultant's employees shall check in with the school office each day immediately upon arriving at the school site;
- 11.4. Once at such location, Consultant and Consultant's employees shall not change locations without contacting the District;
- 11.5. Consultant and Consultant's employees shall not use student restroom facilities; and
- 11.6. If Consultant and Consultant's employees find themselves alone with a student, Consultant and Consultant's employees shall immediately contact the school office and request that a member of the school staff be assigned to the work location.

**12. Indemnification.** To the furthest extent permitted by California law, Consultant shall, at its sole cost and expense, indemnify and hold harmless the District and its governing board, members of the governing board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all

demands, losses, liabilities, claims, suits, and actions (the "Claims") of any kind, nature, and description, directly or indirectly arising out of, connected with, pertaining to, or resulting from the negligence, recklessness, or willful misconduct of the Consultant. Consultant shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Consultant's own cost and expense, from any and all Claim(s) and allegations relating thereto with legal counsel approved by the District, where such approval is not to be unreasonably withheld.

13. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
14. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

**District:**

MILLER CREEK SCHOOL DISTRICT  
 380 Nova Albion Way  
 San Rafael, CA 94903  
 Fax: (415) 492-3723  
 Email: \_\_\_\_\_  
 ATTN: \_\_\_\_\_

**Consultant:**

[NAME]  
 \_\_\_\_\_, CA 9\_\_\_\_  
 Fax: \_\_\_\_\_  
 Email: \_\_\_\_\_  
 ATTN: \_\_\_\_\_

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

15. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, disputes may be determined by mediation if mutually agreeable, otherwise by litigation. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to Consultant's right to bring a civil action against District. For purposes of those provisions, the running of the time within which a claim must be presented to District shall be tolled from the time Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services.
16. **Anti-Discrimination.** It is the policy of the District that there is no discrimination against any employee engaged in the Services because of race, color, gender, sexual orientation, political affiliation, age, ancestry, religion, marital status, national origin, medical condition

or disability. Therefore, Consultant agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735.

17. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
18. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California.
19. **Venue.** The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which District's administrative offices are located.
20. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
21. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
22. **Interpretation.** No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
23. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
24. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. A facsimile or electronic signature shall be deemed to be the equivalent of the actual original signature. All counterparts so executed shall constitute one Agreement binding all the Parties hereto.
25. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

**MILLER CREEK SCHOOL DISTRICT**

**[CONSULTANT]**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

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**Information regarding Consultant:**

License No.: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Telephone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Type of Business Entity:  
\_\_\_\_ Individual  
\_\_\_\_ Sole Proprietorship  
\_\_\_\_ Partnership  
\_\_\_\_ Limited Partnership  
\_\_\_\_ Corporation, State: \_\_\_\_\_  
\_\_\_\_ Limited Liability Company  
\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_  
Employer Identification and/or  
Social Security Number

**NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, District requires Consultant to furnish the information requested in this section.**

**EXHIBIT A**  
**DESCRIPTION OF SERVICES TO BE PERFORMED BY CONSULTANT**

The Consultant shall, during the term of the Agreement, perform the following Services:

**[SCOPE OF WORK TO BE INSERTED]**

**WORKERS' COMPENSATION CERTIFICATION**

Labor Code Section 3700 in relevant part provides:

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

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
  
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing satisfactory proof to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

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

Date: \_\_\_\_\_

Name of Consultant: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with District prior to performing any Services under this Agreement.)

**FINGERPRINTING/CRIMINAL BACKGROUND INVESTIGATION CERTIFICATION**

One of the boxes below **must** be checked, with the corresponding certification provided, and this form attached to the Independent Consultant Agreement for Special Services ("Agreement"):

- Consultant's employees will have only limited contact, if any, with District pupils and the District will take appropriate steps to protect the safety of any pupils that may come in contact with Consultant's employees so that the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 shall not apply to Consultant for the services under this Agreement. As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District. (Education Code § 45125.1 (c).)

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature & Date: \_\_\_\_\_

- The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that Consultant, who is not a sole proprietor, has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all Consultant's employees, subconsultants, agents, and subconsultants' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Consultant, who may have contact with District pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. A complete and accurate list of all Employees who may come in contact with District pupils during the course and scope of the Agreement is attached hereto."*

- The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to Consultant's services under this Agreement and Consultant certifies its compliance with these provisions as follows: *"Consultant certifies that Consultant, who is a sole proprietor, has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1(k), who may have contact with District pupils in the course of providing services pursuant to the Agreement, and hereby agrees to the District's preparation and submission of fingerprints such that the DOJ may determine that none of those employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. No work shall commence until such determination by DOJ has been made."*

As an authorized District official, I am familiar with the facts herein certified, and am authorized to execute this certificate on behalf of the District and undertake to prepare and submit Consultant's fingerprints as if he or she was an employee of the District.

District Representative's Name and Title: \_\_\_\_\_

District Representative's Signature & Date: \_\_\_\_\_

*I am a representative of the Consultant entering into this Agreement with the District and I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Consultant.*

Date: \_\_\_\_\_

Name of Consultant: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name and Title: \_\_\_\_\_

**COVID-19 VACCINATION/TESTING CERTIFICATION**

**Consultant:** \_\_\_\_\_

The California Department of Public Health (“CDPH”) requires, pursuant to its Order dated August 11, 2021 (“Order”), that all public and private schools serving students in transitional kindergarten through grade twelve, unless exempt, to verify the vaccine status of all K-12 school workers, effective October 15, 2021. Further, pursuant to the Order, all such schools are required to verify that all workers are either fully vaccinated or undergo weekly diagnostic testing.

In light of these CDPH requirements, Consultant certifies that the following entity:

\_\_\_\_\_ has verified that the Consultant personnel providing services at District’s property:

- Have all been fully vaccinated in accordance with the CDPH Order.
  
- Have not all been fully vaccinated, but those who are unvaccinated or not fully vaccinated undergo weekly diagnostic testing in accordance with the CDPH Order.
  
- Have not been fully vaccinated and do not undergo weekly diagnostic testing in accordance with the CDPH Order.

Consultant understands that the District’s facilities and sites will need to comply with the CDPH Order’s COVID-19 requirements for fully vaccinated personnel or unvaccinated personnel. Personnel who are not fully vaccinated or decline to state their vaccination status will be treated as unvaccinated, and Consultant will comply with the CDPH Order, and all applicable state and local laws for vaccinated and unvaccinated personnel.

**CERTIFICATION**

I, \_\_\_\_\_, certify that I am Consultant’s \_\_\_\_\_ and that I have made a diligent effort to ascertain the facts with regard to the representations made herein.

Date: \_\_\_\_\_

Name of Consultant: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_