

PERRIS UNION HIGH SCHOOL DISTRICT
AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT, made and entered into this 29th day of October, 2020, by and between the Perris Union High School District of Riverside County, California hereinafter referred to as "District," and Ironwood Consulting & Inspection Inc. hereinafter referred to as "Consultant".

WITNESSETH:

WHEREAS, it is the desire of the District to contract with Consultant to provide DSA Project inspection services related to Perris High School- DSA Application Number 04-118639-02, File Number 33-H8.

WHEREAS, in consideration of the mutual promises of the parties hereto, the District hereby retains the Consultant upon the terms and conditions set forth, and the Consultant hereby accepts said retention and agrees to render the services upon said terms and conditions.

1. **TERM:** The term of this Agreement shall commence on the date hereof and terminate October 28, 2023, unless terminated earlier pursuant to Section 15.
2. **INCORPORATED DOCUMENTS:** The following documents are attached to and incorporated into this agreement: Ironwood Consulting & Inspection Inc Proposal dated September 23, 2020.
3. **SCOPE OF WORK:** As directed by the District, the Consultant agrees to the following:
 - A. Consultant shall provide DSA Project inspection services related to Perris High School- DSA Application Number 04-118639-02, File Number 33-H8.
4. **DISTRICT DESIGNEE:** Consultant shall provide its Services the Director of Facilities, Hector Gonzalez, who is the District's designee in this matter ("District's Designee"). All Services shall be subject to the approval of District's Designee.
5. **EXPENSES:** Consultant agrees and understands that some travel may be required, at Consultant's expense, to District school sites and/or to other locations. These travel expenses are not reimbursable and shall be considered to be an ordinary expense of this Agreement. Consultant shall not invoice the District for travel time from home office to a District location. The Consultant shall assume all ordinary expenses incurred in the performance of this Agreement. Such ordinary expenses shall include, without limitation, document reproduction expenses, travel expenses, and telephone charges. Services and expenses that are above the ordinary and may be required shall not be reimbursable unless authorized in writing by the District's Designee, and shall be covered by addendum to this Agreement.
6. **SUBCONTRACTORS:** Consultant shall hire any subcontractors needed to provide the services and/or products, which subcontractors shall be subject to approval by the District. Any additional subcontractor(s), not identified in the project proposal shall be at no additional expense to the District, and shall be paid from the Consultant's own resources and billings.
7. **INDEPENDENT CONTRACTOR:** Consultant, its employees, and all subcontractors shall be an independent contractor for District and not an employee of the District. Consultant understands and agrees that it and all of its employees and subcontractors shall not be considered officers, employees or agents of District, and are not entitled to benefits of any kind normally provided to employees of District, including but not limited to, state unemployment compensation or workers' compensation. Consultant assumes full responsibility for the acts and omissions of its employees or agents related to the Services contemplated by this Agreement. Consultant assumes full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes, for employees performing the Services.

The Parties acknowledge Labor Code section 2750.3 and its potential impact on independent contractor relationships. The Parties agree that: (1) Consultant shall be responsible for the control and direction of its own employees and personnel in the performance of the Services under this Agreement; (2) the Consultant's personnel shall only perform work that is outside the

usual course of the District's function of educating children; and (3) Consultant's personnel shall be engaged in business independent of the District. Consultant shall defend and indemnify the District against any claim by any worker that it is actually an employee of the District.

8. **ASSIGNMENT:** Consultant shall not assign this Agreement or any interests therein without the prior written approval of the District. Any such attempt to assign or sublet this Agreement without District approval shall be invalid.
9. **CONFIDENTIALITY:** Consultant and all employees designated by Consultant to perform under this Agreement shall maintain the confidentiality of all information received while providing the Services. This requirement shall extend beyond the effective termination or expiration date of this Agreement.
10. **EXECUTION OF CONTRACT:** Consultant shall not commence providing Services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under Exhibit "A".
11. **INDEMNIFICATION:** Consultant shall defend, indemnify and hold the District, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of Consultant, its officials, officers, employees, agents, consultants and contractors arising out of or in connection with the performance of the Services or this Agreement, including without limitation the payment of all consequential damages and attorney's fees and other related costs and expenses. Consultant shall defend, at Consultant's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its directors, officials, officers, employees, agents or volunteers arising out of or in connection with the performance of the Services or this Agreement. Consultant shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding arising out of or in connection with the performance of the Services or this Agreement. Consultant shall reimburse District and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided in connection with the performance of the Services or this Agreement. Consultant's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials, officers, employees, agents or volunteers.
12. **DELIVERABLES:** The Services and/or Products required for the performance of the Services under this Agreement must be provided to the District's Designee no later than ten (10) days before the expiration of the term of the Agreement or at intermediate dates as requested by District's Designee. Failure to do so will result in the District withholding payment of progress or final invoice of Vendor until said Services and/or the Products are received by the District's Designee.
13. **FEE:** For Services provided under the Agreement, the District will pay Consultant in an amount not to exceed \$954,720.00 for Services rendered. See incorporated proposal dated September 23, 2020 for individual rates of DSA Project Inspector 1 and DSA Assistant Inspector.
14. **PAYMENT TERMS:** Net 30 days from date invoice received in Business Services at Perris Union High School District.
15. **TERMINATION:** This Agreement may be terminated by District, for any reason, during the life of this Agreement, by giving thirty (30) days' notice to Consultant. Said notice shall be in writing and shall be delivered to the addresses listed for the Consultant. Consultant may terminate this Agreement only if District breaches this Agreement and shall give 30 days' written notice to District of its termination. Such notice shall be delivered to the District's Designee and shall set forth reasons for the termination.
16. **FORCE MAJEURE:** "*Force Majeure*" means any act or event that prevents or delays the affected Party from performing its obligations in accordance with this Agreement, if such act or event is beyond the reasonable control, and not the result of the fault or negligence, of the affected Party and such Party has been unable to overcome such act or event with the exercise of due diligence (including the expenditure of reasonable sums). Force Majeure includes but is not limited to: (i) acts of God and other natural phenomena, such as storms, extraordinary seasonal conditions, tornados, hurricanes, floods, lightning, landslides, and earthquakes; (ii) explosions or fires arising from lightning or other causes unrelated to the acts or omission of the Party seeking to be excused from performance; (iii) acts of war or public disorders, civil disturbances, riots, insurrection, sabotage or vandalism, epidemic, pandemic, terrorist acts, or rebellion; (iv) any industry or trade-wide national labor dispute or strike or any other strike or labor dispute not directed solely at a contractor or vendor; (v) any Utility power outage at the

Premises; (vi) a reasonably unanticipated action, delay or failure to act by a Governmental Authority, including a moratorium on any activities related to this Agreement.

17. **FISCAL YEAR:** Consultant understands and agrees that this Agreement may involve services to be performed in different school fiscal years. While it is the intent of the District to utilize the Consultant continuously throughout the term irrespective of fiscal year, Consultant and District agree and acknowledge that all services in fiscal years subsequent to the fiscal year of Agreement execution is contingent upon availability of continued funding.
18. **AUTHORITY:** In accordance with California Education Code Section 17604, this Agreement is not valid or an enforceable obligation against the District until approved or ratified by motion of the Governing Board duly passed and adopted.
19. **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement sets forth the entire understanding of the parties regarding the subject matter thereof, and no modification or amendment to this Agreement shall be binding unless said modification or amendment is in writing and duly executed with the same formality as this Agreement itself. This Agreement shall be binding on the successors and assigns of the parties.
20. **PERMITS & LICENSES:** Consultant shall, during the term of this Agreement, obtain and maintain all licenses, certificates, permits and approvals of whatever nature that are legally required to provide the Services.
21. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of California.
22. **COMPLIANCE:** Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the provision of the Services and/or the Products, including all Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with providing the Services. If the Consultant performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Consultant shall be solely responsible for all costs arising therefrom. Consultant shall defend, indemnify and hold District, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations. Consultant shall provide all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by others in the same profession in California. Consultant represents and warrants that all employees have sufficient skill and experience to perform the Services assigned to them.
23. **RECORDS:** Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.
24. **FINGERPRINTING:** This contract is subject to the provisions of Education Code Section 45125.1. Consultants' employees are required to submit fingerprints to the Department of Justice where an employee may come into contact with students at any site. The Department of Justice will ascertain whether the employee has a pending criminal proceeding for a violent or serious felony or has been convicted of a violent or serious felony as they are defined in Penal Code Sections 667.5c and 1192.7c respectively. Consultant shall not permit an employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Education Code Section 45122.1. Consultant shall certify in writing to the District that none of its employees who may come in contact with students have been convicted of a felony as defined in Education Code Section 45122.2. District may request the removal of an employee from a site at any time. Failure to comply with this provision may result in termination of the Contract.
25. **NONDISCRIMINATION:** It is the policy of the District that in connection with all work performed under contracts, there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. Each Contractor agrees to comply with applicable Federal and California laws including, but not limited to, The California Fair Employment Practice Act, beginning with Government Code Section 12900, Labor Code Section 1735, and Title 5, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations. In addition, each Contractor agrees to require like compliance by any subcontractors employed on the work by him.

- 26. **WORKERS' COMPENSATION:** In accordance with the provisions of Section 3700 of the Labor Code, Contractor shall secure the payment of compensation to employees.
- 27. **WAIVER:** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.
- 28. **SEVERABILITY:** In the event any portion of this Agreement shall be finally determined by any court of competent jurisdiction to be invalid or unenforceable, such provision shall be deemed void and the remainder of this Agreement shall continue in full force and effect.

Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective party.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date written above:

CONSULTANT:

Type or Print Consultant's Name

Consultant's Signature

Date

Consultant's Address

City State Zip


Phone Fax

Consultant's Email Address

DISTRICT:

Candace Reines

Type or Print District Approver's Name



District Approver's Signature

Deputy Superintendent, Business Services

District Approver's Title

10/29/20

Date

EXHIBIT "A" - Insurance Requirements

- A. Minimum Requirements. Consultant shall, at its expense, procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:
- B. Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (A) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (B) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (C) *Workers' Compensation and Employers' Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- C. Minimum Limits of Insurance. Consultant shall maintain limits no less than: (A) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (B) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (C) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease.
- D. Professional Liability. [INCLUDE IF APPLICABLE] Consultant shall procure and maintain, and require its sub-consultants to procure and maintain errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual liability.
- E. Insurance Endorsements. The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:
- (1) General Liability. The general liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Services and/or the Products or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it.
- (2) Automobile Liability. The automobile liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant's insurance and shall not be called upon to contribute with it.
- (3) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the District, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.
- (4) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees, agents and volunteers.

F. Other Requirements. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers. Any deductibles or self-insured retentions must be declared to and approved by the District. Consultant shall guarantee that, at the option of the District, either: (A) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees, agents and volunteers; or (B) the Consultant shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the District. Consultant shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District if requested. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

IRONWOOD CONSULTING & INSPECTION INC

359 CAVALETTI LN NORCO CA 92860
(909)731-2064

September 23, 2020

Mr. Hector Gonzalez
Director of Facilities
Perris Union High School District
155 E. 4 St.
Perris, CA 92570

Hector Gonzales:

EMAILED TO: hector.gonzalez@puhsd.org

RE: Perris High School
DSA Application Number 04-118639-02, File Number 33-H8
DSA Project Inspector 1 And Assistant Inspector

Pursuant to your request, I am providing this proposal for the referenced service. This proposal is based on DSA-approved plans. It is our understanding that construction will be for Three Years. Our estimated fee for this service is:

DSA Project Inspector 1	6240 hours @ \$95.00 per hour	\$592,800.00
DSA Assistant Inspector	4160 hours @ \$87.00 per hour	\$361,920.00
	Total	\$954,720.00

NOTE REGARDING OVERTIME RATES:

Normal hours: eight hours Monday-Friday, excluding any Holiday
Overtime hours (1.5 X): first 4 overtime hours Monday-Friday and first 12 hours on Saturday, excluding any Holiday
Double-time hours (2 X): all hours over 12 on Monday-Saturday and all hours on Sunday or Holiday

All invoices are due within 30 days. Interest in the amount of ½% per month will be added to all past-due amounts.

Please contact me if you have any questions regarding our services or fees.

Sincerely,



Steve Potter
President