



May 3, 2005

Mr. Thomas Holguin
President, Board of Trustees
Anaheim Union High School District
District Office
501 Crescent Way, P.O. Box 3520
Anaheim, CA 92803-3520

Re: Anaheim Union High School District

Subject: Measure Z Operational Forensic Performance Audit

Dear Mr. Holguin:

This letter agreement (the "Agreement") confirms our understanding that the Governing Board of Trustees of Anaheim Union High School District ("AUHSD") has engaged Construction Controls Group, Inc. ("CCG") to act as its Auditor-Consultant in conducting an Operational Forensic Performance Audit of its Measure Z Program. The project will commence as of May 2, 2005. CCG shall have approximately three (3) months to perform the requested services unless terminated earlier as set forth in Paragraph 4, below (the "Term"), to provide the services set forth in Paragraph 1(a), below. This engagement shall be based on the terms and conditions set forth in this Agreement.

1. Provision of Consulting Services.

a. Description of Services. During the Term, CCG shall provide audit consulting services which include conducting an Operational Forensic Performance Audit of its Measure Z Program. The scope of work envisioned by the District encompasses the delivery method processes in addition to internal control procedures and disbursements of funds expended from March 2002 through February 2005. The scope of review includes the overall Measure Z Program and all modernization and construction projects undertaken during this period. Major work activities include four-phases: i) Phase 1: As-Is Operational Assessment, ii) Phase 2: Best Practices Analysis, iii) Phase 3: Performance Evaluation, and iv) Phase 4: To-Be Recommendations and Final Reporting (refer to *Exhibit A* for the Work Plan). In rendering the aforementioned services (i-iv), CCG shall take into consideration the specific project objectives of AUHSD as communicated to CCG through its Request for Proposal No. 2005-22.

b. No Authority. CCG shall have no decision-making authority with respect to Anaheim Union High School District's affairs or authority to act as AUHSD's agent unless Anaheim Union High School District otherwise directs in a specific instance or project. Furthermore, CCG shall have no authority to enter into agreements on behalf of Anaheim Union High School District or otherwise bind Anaheim Union High School District with third parties.

2. Compensation.

a. For all audit-consulting services, compensation shall be based on a time and material basis with an anticipated not-to-exceed fee amount of \$100,000 based on our understanding of services as outlined in the District's Request for Proposal. In the event this amount is anticipated to be exceeded, CCG is to provide advance written notification to the District. Time is based on hourly rates as follows:

Corporate Office: 707 Wilshire Boulevard/Suite 4760
Los Angeles/CA/90017/213.614.0100/Fax 213.614.0111/www.c-c-g.net

<u>Job Classification</u>	<u>Hourly Rate</u>
Senior Consultants	\$250
Auditor	\$200
Technology Specialist	\$200
Cost Estimator	\$150
Scheduler	\$150
Administrative Support	\$60

b. Hourly rates are based on office and research support time only. These rates will remain in effect for a period of twelve (12) months from the date of execution of the contract. After twelve (12) months, rates may be adjusted based on the Consumer Price Index for the Los Angeles-Riverside-Orange Co. Metropolitan areas for the prior twelve (12) month period.

c. Invoices will be issued monthly. Payments shall be due within thirty (30) days of invoice receipt. In the event that Anaheim Union High School District fails to pay any amounts referred to herein within forty five (45) days of the invoice receipt date, CCG may suspend performance of services upon five (5) calendar days' notice to the District. The consultant shall have no liability whatsoever to the Anaheim Union High School District for any costs or damages as a result of such suspension caused by any breach of this Agreement by the Anaheim Union High School District.

d. This Agreement does not include rates for personnel participating in depositions, arbitration, mediation, or litigation. In the event services of this nature are required a separate Agreement will be prepared as requested by the Anaheim Union High School District.

3. Expenses.

Anaheim Union High School District shall reimburse CCG for any expenses CCG incurs which are directly associated with the Operational Forensic Performance Audit. Reimbursable expenses to be billed at 1.10 times the cost of out of pocket expenses and may include telephone and fax expenditures, mileage or travel beyond the Los Angeles/Orange County areas, photos, copies, scanning, mailing and office supplies specific to this project. Mileage rate shall be at the approved IRS rate. No out-of-town travel costs will be paid without owner's prior written permission. Expenses are in addition to the fee amount listed under Paragraph 2.

4. Termination.

This Agreement may be terminated by either party upon thirty (30) days' prior written notice. Termination of the Agreement shall not affect CCG's right to compensation as specified in Paragraph 2, above.

5. Consultant Relationship.

CCG enters into this Agreement as, and shall continue to be, a consultant to Anaheim Union High School District. Except for the compensation described in Paragraph 2, under no circumstances shall CCG or any of its agents look to Anaheim Union High School District as an employer, partner, joint venture, agent or principal.

6. Representations and Warranties.

Anaheim Union High School District represents and warrants that no ownership rights in Anaheim Union High School District have in any way been encumbered, sold, conveyed, assigned, granted or otherwise

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disposed of, and that it has the full right, power and authority to enter into and negotiate this Agreement and to make the representations and warranties made herein without obtaining the consent of any other person or entity. Anaheim Union High School District represents and warrants that it has not granted or transferred any ownership interest in Anaheim Union High School District to any third party, and that it has not done nor will it do anything which has impaired or will impair CCG's ability to perform the scope of services in any way.

7. Indemnification.

Anaheim Union High School District and Construction Controls Group, Inc. in association with Tama Smith and Associates mutually agree to indemnify each other, their governing boards, boards of directors, officers, employees and agents, from every claim or demand and every liability, loss, damage or expense, which may be incurred by reason of any liability for damages caused solely by any negligent act, neglect, default or omission of the other party.

8. Insurance.

Construction Controls Group, Inc., and its subcontractors agree to maintain a policy of professional liability insurance in the amount of one million dollars. Construction Controls Group, Inc. and its subcontractors shall provide the Anaheim Union High School District with certificates of insurance evidencing all coverages and endorsements required including 30 days written notice of cancellation, ten (10) days notice for non-payment of premium.

9. Notices.

All notices given under this Agreement shall be in writing. They shall be served either personally, by certified mail, facsimile transmission or overnight courier. If served personally, service conclusively shall be deemed made at the time of service. If served by certified mail, service conclusively shall be deemed made three (3) days after deposit thereof in the United States mail, postage prepaid, addressed to the party to whom such notice or demand is to be given; if by facsimile transmission or overnight courier, service shall be deemed made on the next business day after transmission or delivery. All Communications shall be addressed to the parties as follows:

If to Anaheim Union High School District:

Mr. Thomas Holguin
President, Board of Trustees
Anaheim Union High School District
District Office
501 Crescent Way, P.O. Box 3520
Anaheim, CA 92803-3520

If to Construction Controls Group:

Ms. Lisa C. Sachs, AIA, CCM
President & CEO
Construction Controls Group, Inc.
707 Wilshire Blvd., Suite 4760
Los Angeles, CA 90017

Either party may change its address for purposes of this Paragraph 8 by notifying the other party of its new address in the manner set forth in this Paragraph 8.

10. Dispute Resolution.

Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to arbitration or the institution of legal or equitable proceedings by either party. The Owner and Consultant shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the Construction Industry Mediation Rules of the American Arbitration Association currently in effect. Request for mediation shall be filed in writing with the other party to this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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11. General Provisions.

a. Survival of Provisions. Paragraphs 2, 4, 6, 7, 9 and 10 (as applicable) shall survive the termination of CCG's engagement by Anaheim Union High School District.

b. Severability. Should any provision of this Agreement be held invalid, void or unenforceable by a court of competent jurisdiction, such adjudication shall in no way affect the validity or enforcement of the remainder of this Agreement, and the provision affected shall be curtailed only to the extent necessary to bring the Agreement within the applicable requirements of the law.

c. Assignment. Neither this Agreement nor any rights or benefits hereunder shall be subject to execution, attachment or similar process and neither party may assign, transfer or pledge this Agreement or any rights or benefits hereunder or delegate any duties hereunder without the prior written consent of the other party. Any such assignment, transfer or pledge by either party in violation of this provision shall be null, void and of no effect. Subject to the foregoing, this Agreement and all of the terms and conditions hereof shall benefit and bind Anaheim Union High School District and its successors and shall benefit and bind CCG, its successors and subcontractors.

d. Amendment/Waiver. This Agreement may be amended, supplemented, modified, or rescinded only through an express written instrument signed by both Construction Controls Group and Anaheim Union High School District. Neither the waiver by either of the parties hereto of a breach of or a default under any of the provisions of this Agreement, nor the failure of either of the parties, on one or more occasions, to enforce any of the provisions of this Agreement or to exercise any right or privilege hereunder, shall thereafter be construed as a waiver of any subsequent breach or default of a similar nature, or as a waiver of any such provisions, rights or privileges hereunder.

e. Governing Law and Forum. This Agreement shall be construed in accordance with and governed by the laws of the State of California.

f. Entire Agreement. This Agreement constitutes the entire and complete understanding between CCG and Anaheim Union High School District concerning the subject matter herein. All prior representations, agreements and understandings between CCG and Anaheim Union High School District, whether oral or written, have been fully and completely merged herein and are fully superseded by this Agreement.

g. Counterparts. This instrument may be executed in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

If the terms set forth above are acceptable, please indicate your agreement to the foregoing by signing this letter below where indicated and returning an executed letter to me.

Very truly yours,

CONSTRUCTION CONTROLS GROUP, Inc.

By: _____
Lisa C. Sachs, *President & CEO*

"ANAHEIM UNION HIGH SCHOOL DISTRICT"

Agreed to and accepted this
____ day of _____, 2005

Anaheim Union High School District

