

**BERRYESSA UNION SCHOOL DISTRICT
PURCHASING DEPARTMENT
1376 PIEDMONT RD
SAN JOSE, CA 95132
408-923-1871 OFC
408-926-8329 FAX**

**INSTRUCTIONS FOR PREQUALIFICATION PACKAGE
PROSPECTIVE PRIME CONTRACTORS
Measure U Bond Program Project Year 2022-23**

I. BACKGROUND AND OVERVIEW

The Berryessa Union School District ("District"), is prequalifying prime contractors to perform construction work on District Measure U Bond Program projects.

California Public Contract Code section 20111.6 requires all Prime Contractors (collectively "Contractors") to prequalify for projects involving a projected expenditure of \$1 million or more that is eligible for state bond funding. Consequently, the District requires prospective Contractors who plan on submitting bids to: (1) Fully complete a prequalification questionnaire on the form supplied by the District attached hereto ("Prequalification Questionnaire"); and (2) Provide financial information to the District (collectively, the Prequalification Questionnaire and financial information are referred to as the "Prequalification Package").

Under California Public Contract Code Section 20111.6 the District is precluded from accepting bids from any bidder that did not submit prequalification documents at least ten (10) business days before the date fixed for the public opening of sealed bids or from a bidder that has not been prequalified for at least five (5) business days prior to that date. A "bidder" includes the general contractor and, if used, all electrical, mechanical, and plumbing subcontractors.

If a public project covered by 20111.6 includes electrical, mechanical or plumbing (MEP) components that will be performed by electrical, mechanical or plumbing subcontractors, the District is required to prequalify those subcontractors, too.

Once the prequalification process is complete, the District will notify the contractors who meet the prequalification requirements. **Prequalification will be valid through December 31, 2023. The District strongly suggests that firms re-apply for prequalification in January of each year to remain in good standing with the District and retain their place on the Prequalification List.**

Contractors who are prequalified must update prequalification forms as their status or information changes. The District reserves the right to request that contractor(s) update prequalification forms at any time and revoke, rescind, and/or reuse the prequalification status of a contractor.

A list of prequalified contractors will be provided to all prospective bidders for a project as needed and applicable. **A Contractor may not submit a bid unless that Contractor is prequalified by the District.**

II. PROJECT DESCRIPTION

Construction projects of One Million Dollars or more, including Measure U Bond Program projects.

III. PREQUALIFICATION PROCESS

The following process will govern the conduct of contractor prequalification for the Projects. A contractor who submits a complete Prequalification Package thereby consents to and will comply with the procedures outlined below and as set forth in greater detail in this document.

A. Submittal Prime Contractors. All prospective contractors who wish to qualify to be listed as prime contractors for work on the Projects shall submit a Prequalification Package in a sealed envelope to:

Berryessa Union School District
Attn: Bonny S Gregorius
Purchasing Department
1376 Piedmont Rd
San Jose, CA 95132

Please mark the outside of your envelope:

"Prime Contractor Prequalification Response"

For information regarding the prequalification process, please call Bonny S Gregorius, Purchasing/Contracts Manager at (408) 923-1871. Email: bgregorius@busd.net.

B. Form. Each contractor shall fully complete the Prequalification Package and timely submit all documents as indicated therein. Contractors shall submit one (1) completed Prequalification Package with required attachments in hard copy format on 8½" x 11" paper in a sealed envelope as indicated above. Incomplete Prequalification Packages will be considered nonresponsive and disregarded.

C. District's Review. Information submitted in the Prequalification Package shall not be public information and shall not be open to public inspection, to the extent permitted by law. Contractors that have submitted a Prequalification Package shall receive written notification of their prequalification status. The District reserves the right, in its sole discretion, to reject any or all Prequalification Packages or to waive irregularities in any Prequalification Package received.

D. Non-responsiveness. A contractor's Prequalification Package shall be deemed nonresponsive if:

1. The Prequalification Package is not returned on time.
2. Contractor does not provide all requested information.

3. The Prequalification Questionnaire is not signed under penalty of perjury by individuals who have the authority to bind the contractor on whose behalf they are signing.

E. Incomplete, Misleading or Inaccurate Information. A contractor's Prequalification Package shall be rejected if:

1 Information contained in the Prequalification Package is not updated under penalty of perjury when it is no longer accurate.

2 Any information provided by the contractor is misleading or inaccurate in any material manner (e.g., financial resources are overstated; previous violations of law are not accurately reported).

Even after a contractor has been prequalified, the District reserves the right to revoke that determination at any subsequent time if it determines that any information provided by the contractor in its Prequalification Package or subsequently was incomplete, misleading, or inaccurate in any material manner.

IV. QUALIFICATION CRITERIA

A. Essential Criteria. As detailed herein, each potential contractor must provide specific information that will be reviewed and scaled by the District. Any contractor who cannot satisfy all of the following requirements ("Essential Criteria"), regardless of the ranking or ability to meet other criteria, will not be prequalified:

1. Licensure. The contractor shall hold all current, active contractors' license(s) necessary to perform its work and those license(s) shall not have been revoked in the past five (5).

2. Insurability. The contractor shall demonstrate that it holds the insurance as indicated in the Prequalification Package.

3. Termination. A surety firm shall not have completed your firm's work because your firm was defaulted/terminated with cause from any project by any school district or other public agency within the State of California within the past five (5) years.

4. Disqualification. The contractor shall not have been debarred or otherwise prohibited from performing work for and/or bidding on work for any school district or other public agency within the State of California pursuant to either Labor Code section 1777.1 or section 17777.7.

5. Violations of Regulations or Laws. The contractor, or any of its owners or officers, shall not have been convicted of a crime involving the bidding, award or performance of a contract of a government construction project or fraud, theft, or any other action of dishonesty within the past five (5) years.

6. Bonding Capacity. The contractor shall demonstrate that it holds the insurance as indicated in the Prequalification Package.

B. Other Criteria.

As stated above, each contractor must satisfy all of the Essential Criteria, regardless of its ranking or ability to meet other criteria or the contractor will not prequalify to be listed by a prime contractor for the Project(s).

The Prequalification Questionnaire contains questions for which a numerical score will be given for specific answer(s). A contractor must receive a minimum number of points, regardless of its ability to meet other criteria, or the contractor will not prequalify for the District projects. Even if a contractor meets the Essential Criteria and receives at least the minimum number of points, the District reserves the right to disqualify that contractor from being listed by a prime contractor for a Project on other grounds.

The District will use some or all of the following criteria in qualifying each contractor. The District reserves the right to modify the following criteria and to add or delete criteria at its sole discretion at any time prior to opening the Prequalification Package(s).

1. Previous Experience. The contractor shall demonstrate experience working on State projects approved by the Division of the State Architect ("DSA"), including the following:

a. Previous or current contracts for similar types of projects that demonstrate equivalent quality design, detailing, finishes and construction.

b. Experience in working on projects of similar scale and complexity with strict budget and schedule compliance.

2. Business History. The contractor has a history of having continuously been in business as a licensed contractor.

3. Workers' Compensation Experience Modifier. The District will consider the contractor's workers' compensation experience modification rate for the past five (5) years.

4. Financial Strength. The contractor shall demonstrate its financial ability to undertake and complete the Project.

V. APPEALING A QUALIFICATION FINDING

A contractor may appeal the Berryessa Union School District's decision. If a contractor decides to appeal the District's qualification decision, it shall follow this procedure:

A. Contractor shall submit, in writing, within three (3) working days from notification, a request for a written response to explain any aspect of the District's determination.

Berryessa Union School District
Attn: Bonny S Gregorius
Purchasing Department
1376 Piedmont Rd
San Jose, CA 95132

Mark your envelope "Request for Prequalification Decision Appeal"

B. Within three (3) working days from receipt of the District's written response to the Contractor's Request for Prequalification Decision Appeal, contractor may submit, in writing, a request for a hearing by District staff. The Hearing shall be an informal process conducted by a panel consisting of three members of the District's administrative team not involved in the initial determination (the "Appeals Panel").

C. At the Hearing the contractor may present any information that it believes supports a finding that the District's determination should be changed. The Appeals Panel will render its decision within three (3) working days after the conclusion of the Hearing.

NOTE: If a contractor chooses not to avail itself of this process, the contractor waives any and all rights to challenge Berryessa Union School District's determination, whether by administrative process, judicial process, or any other legal process or proceeding.

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**Project Year: 2022-23
PREQUALIFICATION QUESTIONNAIRE FOR
PROSPECTIVE PRIME CONTRACTORS**

Each prospective contractor shall be currently licensed and shall submit the following information to establish its qualifications to perform construction work as a Prime Contractor on District projects, involving a projected expenditure of \$1 million or more that is eligible for state bond funding.

A. PRIME CONTRACTOR INFORMATION

Contractor's Name _____

Date: _____ Fed I.D. # _____

License # _____ DIR License # _____

Full Corporate Name of Company: _____

Street Address: _____

Mailing Address: _____

Phone: _____ Fax: _____

Name of Principal Contact: _____

Email Address: _____

Type of Business: _____ Sole Proprietor _____ Partnership
_____ Non-Profit 501 C3 _____ Corporation
_____ other (please explain: _____)

Years in business as a licensed contractor: _____

Types of work performed with own forces: _____

Years in business under current firm name: _____

Years at the above address: _____

B CURRENT ORGANIZATION AND STRUCTURE OF THE BUSINESS

1. For Firms that Are Corporations:

- a. Date incorporated : _____
- b. Under the laws of what state: _____
- c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least 10% of the corporation's stock.

| Name | Position | Years with Co. | % Ownership |
|------|----------|----------------|-------------|
| | | | |
| | | | |

2. For Firms that Are Partnerships:

- a. Date of formation: _____
- b. Under the laws of what state: _____
- c. Provide all the following information for each partner who owns ten percent (10%) or more of the firm.

| Name | Position | Years with Co. | % Ownership |
|------|----------|----------------|-------------|
| | | | |
| | | | |

3. For Firms that Are Sole Proprietorships:

- a. Date of commencement of business: _____

4. For Firms that Intend to Bid as a Joint Venture:

- a. Date of commencement of joint venture: _____
- b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects. Attach all additional references and/or information on separate signed sheets.

| Name of Firm | % of Ownership of Joint Venture |
|--------------|---------------------------------|
| | |
| | |
| | |

5. Associated Firms

For any of the above business structures, identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the past 5 years.

| Person's Name | Name of Construction Firm & License No. | Dates of Person's Participation with Firm |
|---------------|---|---|
| | | |
| | | |

Attach all additional references and/or information on separate signed sheets.

C. HISTORY OF THE BUSINESS AND ORGANIZATIONAL PERFORMANCE

1. Has there been any change in ownership of the firm at any time during the past three years?
NOTE: A corporation whose shares are publicly traded is not required to answer this question.

☐ Yes ☐ No

If "yes," explain on a separate signed sheet.

2. Is the firm a subsidiary, parent, holding company, or affiliate of another construction firm?
NOTE: Include information about other firms if one firm owns 50% or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, including the name of the related company and the percent ownership

3. Are any corporate officers, partners or owners connected to any other construction firms?
NOTE: Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes ☐ No

If "yes," explain on a separate signed sheet.

4. State your firm's gross revenues for each of the past 3 years:

| Year | Gross Revenue |
|------|---------------|
| 2019 | \$ |
| 2020 | \$ |
| 2021 | \$ |

5. How many years has your firm been in business in California as a contractor under your present business name and license number? _____

6. Is your firm currently the debtor in a bankruptcy case or was in bankruptcy at any time during the last 5 years?

☐ Yes ☐ No

If "yes," please attach a copy of the bankruptcy petition and a copy of the Bankruptcy Court's discharge or any other document that ended the case, if any.

LICENSES

7. Please provide the following information:

a. Name of license holder exactly as on file with the California State License Board:

b. License classification(s): _____

c. License #: _____

d. Expiration Date: _____

e. DIR Registration Number _____

8. Has any CSLB license held by your firm or its Responsible Managing Employee or Responsible Managing Officer been suspended or revoked within the last 5 years?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet.

9. Has your firm changed names or license number in the past 5 years?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, including the reason for the change.

DISPUTES

10. At any time in the last 5 years, has your firm been assessed liquidated damages under a construction contract with another public or private owner?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, identifying projects by owner, owner's address, and date of completion.

11. At any time in the last 5 years, has your firm, or any owners, officers or partners, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any public works project?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, including the name of the person who was associated with that company, the year of the event, owner, owner's address and basis for the action.

12. At any time in the last 5 years, has a public agency found your company was not a responsible bidder?
- ☐ Yes ☐ No
- If "yes," explain on a separate signed sheet, including the year of the event, owner, owner's address and basis for the finding.
13. In the past 5 years, has any claims against your firm or by your firm against an owner been filed in court or arbitration concerning your firm's work or payment on a construction project?
- ☐ Yes ☐ No
- If "yes," explain on a separate signed sheet, including the project name, court or arbitration case name and number, and a brief description of the status of the claim.

INSURANCE

14. Does contractor have liability insurance policy with a policy limit of at least \$1,000,000 per occurrence and \$2,000,000 aggregate?
- ☐ Yes ☐ No
15. Does contractor have current workers' compensation insurance policy as required by the California Labor Code or is legally self-insured pursuant to California Labor Code section 3700 *et seq.*?
- ☐ Yes ☐ No
16. In the last 5 years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?
- ☐ Yes ☐ No
- If "yes," explain on a separate signed sheet, including the name of the insurance carrier, form of insurance and year of the refusal.

CRIMINAL MATTERS AND RELATED CIVIL SUITS

17. Has your firm or any of its owners, partners or officers ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?
- ☐ Yes ☐ No
- If "yes," explain on a separate signed sheet, identifying who was involved, name of the public agency, date of the investigation and grounds for the filing.
18. Has your firm or any of its owners, partners or officers ever been convicted of a crime involving any federal, state, or local law related to construction or fraud, theft, or any other action of dishonesty?
- ☐ Yes ☐ No
- If "yes," explain on a separate signed sheet, identifying who was involved, name of the public agency, date of conviction and grounds for the conviction.

SAFETY

19. Within the past 5 years, has the California or federal OSHA cited and assessed against your firm, or any associated firm, for “serious,” “willful” or “repeat” violations of its safety or health regulations?

☐ Yes ☐ No

If “yes,” explain on a separate signed sheet, identifying the citation(s), nature of the violation(s), project, and amount of penalty paid, if any.

20. Within the past 5 years, has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against your firm or the owner of the project on which your firm was the contractor?

☐ Yes ☐ No

If “yes,” explain on a separate signed sheet, describing the citation(s).

21. State the contractor’s Workers’ Compensation Experience Modification Rate for the past 3 premium years:

| Year | Modification Rate |
|------|-------------------|
| 2019 | |
| 2020 | |
| 2021 | |

If your EMR is 1.00 or higher, you may attach a letter of explanation.

22. Within the past 5 years, has there ever been a period when your firm and/or any associated firm had employees but was without workers’ compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

If yes, explain on separate sheet, including the date(s) and reason(s) for the absence of workers’ compensation insurance.

PREVAILING WAGE AND APPRENTICESHIP COMPLIANCE

23. In the past 5 years, has there been more than one occasion in which your firm was required to pay either back wages or penalties for your firm’s failure to comply with California prevailing wage laws or federal Davis-Bacon prevailing wage requirements?

☐ Yes ☐ No

If “yes,” explain on a separate signed sheet, describing the nature of the violation(s), project, owner, and amount paid, if any.

24. Please provide the name, address and telephone number of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to your firm for use on contracts awarded: _____

25. At any time during the past 5 years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or laws pertaining to use of apprentices on public works projects?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, including date(s) of such findings and attaching the DAS' final decision(s).

BONDING

26. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance and authorized to issue bonds in the State of California), which states your current bonding capacity?

☐ Yes ☐ No

27. Provide the name, address and telephone number of the surety agent: _____

28. List all sureties that have written bonds for your firm currently and during the last 5 years:

| Name | Address | Dates of bonds |
|------|---------|----------------|
| | | |
| | | |
| | | |
| | | |
| | | |

29. In the last 5 years, has any surety paid on your firm's behalf as a result of a default to satisfy any claims made against a payment or performance bond issued on your firm's behalf?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, including the amount of each claim, name and telephone number of claimant, date of and grounds for the claim, and present status.

30. If your firm was required to pay a premium of more than 1% for a performance and payment bond on any project on which your firm worked in the last 3 years, state the percentage that your firm was required to pay: _____.

You may explain on a separate sheet, why you were required to pay a premium of more than 1%.

31. In the last 5 years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place when one was required?

☐ Yes ☐ No

If "yes," explain on a separate signed sheet, including the name of the surety company and the period during which your firm had no bond in place.

B. PROJECT REFERENCES

List **all** projects in which the contractor has participated during the past 3 years using the format on the form attached as Exhibit A and sign the form. Please include all projects performed under all firm names identified in Section B and at least 3 of your firm's most recent California K-12 public school projects. Please use and attach additional signed sheets when needed to explain or clarify any response or to include more responses with all requested information.

C. FINANCIAL INFORMATION

Contractor must submit a reviewed or audited financial statement with accompanying notes and supplemental information for the past two (2) full fiscal years. A letter verifying availability of a line of credit may also be attached; however, it will be considered supplemental information only, and is not a substitute for the required audited or certified financial statement.

CERTIFICATION

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct. I further agree that I will update my application to maintain the accuracy of the responses given here.

Date: _____

Proper Name of Contractor: _____

Signature by an officer of the Contractor:

By: _____
(Print Name)

Title: _____

EXHIBIT A PROJECT REFERENCES

| | |
|---------------------------|--|
| PROJECT NAME | |
| PROJECT ADDRESS | |
| NAME OF DISTRICT | |
| NAME OF CONTACT | |
| TELEPHONE NUMBER | |
| ARCHITECT NAME | |
| TELEPHONE NUMBER | |
| CONSTRUCTION MANAGER | |
| TELEPHONE NUMBER | |
| SCOPE OF WORK | |
| ORIGINAL COMPLETION DATE | |
| ACTUAL DATE OF COMPLETION | |
| TIME EXTENSION GRANTED | |
| INITIAL SUBCONTRACT VALUE | |
| FINAL SUBCONTRACT VALUE | |

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

Company Name

Print Name

Signature

Date