



SAN MATEO COUNTY
COMMUNITY
COLLEGE DISTRICT

PROFESSIONAL SERVICES AGREEMENT

(PSA #)

With

[ARCHITECT NAME]

For

Architectural Design Services for the

[PROJECT]

[DATE]

AGREEMENT BETWEEN THE SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT AND

[ARCHITECT] at [ADDRESS]

This Professional Services Agreement (the “**Agreement**”) is dated **[DATE]** and is by and between the San Mateo County Community College District, a community college district organized and existing under the laws of the State of California (“**Owner**” or “**District**”) and **[ARCHITECT]**, a **[STATE]** Corporation, licensed to do business in California (“**Architect**”) relating to Architectural Design Services for the **[PROJECT]** Project.

Recitals

WHEREAS, District wishes to retain Architect to provide architectural, engineering and related services for its **[PROJECT]**;

WHEREAS, Architect was selected by means of District’s consultant selection process, and represents that it is qualified to provide the services required by District as set forth in this Agreement;

WHEREAS, District’s rules and regulations authorize District to enter into agreements for expert professional temporary services; and

WHEREAS, the services proposed in this Agreement are professional and temporary in nature.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, stipulated and agreed, the parties agree as follows:

AGREEMENT

ARTICLE 1 DEFINITIONS

1.01 Where any word or phrase defined below, or a pronoun used in place thereof, is used in any part of this Agreement, it shall have the meaning herein set forth.

“Agreement”	This Agreement together with all attachments and appendices and other documents incorporated herein by reference including, without limitation, <u>Appendix A</u> (Services to be Provided by Architect), <u>Appendix B</u> (Payments to Architect), <u>Appendix C</u> (Milestone Schedule), <u>Appendix D</u> (Deliverables), <u>Appendix E</u> (Insurance), <u>Appendix F</u> (BIM) <u>Appendix G</u> (Discipline/Specialty Subconsultants), <u>Appendix H</u> (District Design Standards) and <u>Appendix I</u> (District’s MMRP) attached hereto
“Architect”	[ARCHITECT]
“District”	San Mateo County Community College District
“Force Majeure Event”	An event that is beyond the control of both Architect and District, including the events of war, floods, labor disputes, earthquakes, epidemics, and other acts of God.
“Project”	[ENTER NAME OF PROJECT] described in <u>Appendix A</u> , Services to be Provided by Architect.
“Project Manager”	See <u>Appendix A</u> (Scope of Services, Paragraph 14.01.

“Services”	All work, labor, materials and services required under the terms and conditions of this Agreement, provided pursuant to the terms and conditions of this Agreement, including without limitation, architectural, engineering, building information modeling, coordination and administrative services.
“Subconsultants”	Architect’s consultants, subconsultants, contractors and subcontractors, of any tier.

ARTICLE 2 TERM OF AGREEMENT

- 2.01** All work comprising the Services shall be deemed performed under this Agreement. This Agreement shall conclude upon the completion of the Project.

ARTICLE 3 SERVICES ARCHITECT AGREES TO PERFORM

- 3.01** Architect shall perform all Services described in Appendix A, Services to be Provided by Architect, attached hereto and incorporated by reference as though fully set forth herein.
- 3.02** Architect shall complete all Services required by this Agreement within the times specified in the Project’s Master Schedule and Milestone Schedule to be provided by District in accordance with Appendix A paragraph 3.04A (“**Master Schedule**”) and, as applicable, the Milestone Schedule in Appendix C. Architect agrees that the Milestone Schedule includes reasonable allowances for completion of the Services, including all time required for District’s review and approval of deliverables and for approval of the deliverables by all authorities having jurisdiction over the Project and Services. Architect shall achieve its scheduled Milestones (as shown on the Milestone Schedule) unless an Excusable Event causes delay (“**Excusable Delay**”), and unless Architect gives written notice of the Excusable Event and requests a time extension within twenty one (21) days of the occurrence of the Excusable Event. (“**Excusable Events**” shall be limited to acts of neglect by District or District’s agents, contractors or consultants when acting at District’s direction, breaches of this Agreement by District, Acts of God such as fire, flood, earthquake, or epidemic, or delay by a construction contractor during the construction phase of the Project, or any other circumstances beyond Architect’s reasonable control.) If the period of Excusable Delay caused by an Excusable Event concurs with an Architect-caused or other nonexcusable delay, District may (but shall not be required to) grant a time extension without compensation.
- 3.03** Architect may recover extra costs resulting from Excusable Delay upon showing that the costs claimed (i) resulted from time and/or expenses actually incurred in performing Services, (ii) were incurred by Architect as a direct result of the delay and not otherwise within Architect’s scope of Services, and (iii) are documented to District’s satisfaction. (For example, and not by way of limitation, contract punchlist and final inspection Services, when performed no more than twice, and Services related to correcting deficiencies in Architect’s work, shall be within Design Services and not entitle Architect to extra costs or Additional Services.)
- 3.04** Should the progress of the Services under this Agreement at any time fall behind schedule for any reason other than Excusable Delays, Architect shall apply such additional manpower and resources as necessary without Additional Services Compensation to bring progress of the Services under this Agreement back on schedule and consistent with the standard of professional skill and care required by this Agreement. Time is of the essence in the performance of this Agreement.

ARTICLE 4 COMPENSATION

- 4.01** District shall pay Architect compensation according to the Compensation Schedule established in Appendix B, Payments to Architect. District shall pay Architect in monthly payments for Services in an amount which the District, in its sole discretion, concludes is the value of the Services which have been properly performed as of the last day of the immediately preceding month and is invoiced and due under Appendix B.

- 4.02** District shall not incur any charges under this Agreement, nor shall any payments become due to Architect for any payment period on the Project, until District receives all deliverables required under Appendix D, Deliverables, for the payment period (if any) and reasonably accepts such deliverables as meeting the requirements of this Agreement. In cases where Architect has partially completed one or more deliverables due during a payment period, and if Architect demonstrates diligent progress thereon, then District may make a partial progress payment based upon Architect's percentage completion of the partially completed deliverables and diligent progress but taking into account any adverse impacts upon District. District shall not be liable for, and Architect shall not be entitled to, any payment for Services performed before this Agreement's execution. Architect shall be entitled to compensation retroactively once Agreement is fully executed and provided said Services are included within Architect's Scope of Services.
- 4.03** District will not withhold entire payment if a questioned amount is involved, but will issue payment in the amount of the total invoice less any questioned amount(s). District will make payment for questioned amount(s) upon District's receipt of any requested documentation verifying the claimed amount(s) and District's determination that the amount is due under the terms of this Agreement. District shall advise Architect, in writing, within 15 days of receipt of the requested documentation. Final payment will be made when all Services required under this Agreement have been completed to the reasonable satisfaction of District including, without limitation, Architect's transmittal of all deliverables to District required by Appendix A, Services to be Provided by Architect. Payment for design work completed through periodic progress payments, final payment or otherwise shall not operate to waive Owner's right to require full compliance with design requirements of this contract and shall in no way be deemed as acceptance of any design omissions and/or errors paid therefor. Architect's obligation to provide a design in accordance with contract requirements shall be absolute, unless Owner agrees otherwise in writing.
- 4.04** Invoices furnished by Architect under this Agreement must be in a form acceptable to District. The Professional Services Agreement (**PSA**) Number must appear on all invoices and correspondence. Send invoices by email, with PSA Number in the subject line, to San Mateo County Community College District, attention Facilities Planning and Operations, at the following email address: invoicecpd@smccd.edu. All amounts paid by District to Architect shall be subject to audit by District. Payment shall be made by District to Architect at the address stated in Paragraph 6.01 below.
- 4.05** District may set off against payments due Architect under this Agreement any sums that District determines that Architect owes to District because of Architect's errors, omissions, breaches of this Agreement, delays or other acts that caused District monetary damages. Prior to exercising such right, District must demand and attend mediation pursuant to Paragraph 22.03 below of this Agreement, to be attended by District, Architect, and any applicable insurance carriers; such mediation to occur within 30 days of demand. If the parties cannot agree upon the time, place, and mediator, within one week of the District's demand, then the San Mateo County Superior Court may upon application by any party make such selection for the parties. If a party other than District refuses to mediate under this Paragraph 4.05, then District shall have satisfied its obligations under this Paragraph.
- 4.06** No Waiver. Payment by the District, including final payment, will not constitute approval or acceptance of any services included in the payment application or final acceptance or approval of that portion of the services. Payment by the District does not waive the District's right to later object to defective design or deficient services or waive any rights the District may have, or release Architect from its defense, indemnity, or insurance obligations under this Agreement.
- 4.07** No Right to Stop Services. If Architect or any of its subconsultants dispute any determination with respect to a payment application, Architect and its subconsultants will nevertheless expeditiously continue to prosecute the Services, provided that undisputed amounts are timely paid. District will not be deemed to be in default or breach of contract for withholding of any payment under Section 4.05.

- 4.08** Payments to Subconsultants. The District does not have any obligation to pay, or to see that payment is made to, subconsultants except as may otherwise be required by law. Architect will make payments to its subconsultants no later than 15 days after receipt of payment from the District.

ARTICLE 5 MAXIMUM COSTS

- 5.01** District's obligation hereunder shall not at any time exceed the amount approved by District's Board of Trustees and approved by the District's Executive Vice Chancellor or designee for payment to the Architect pursuant to the terms of this Agreement.
- 5.02** Except as may be provided by applicable law governing emergency conditions, District has not authorized its Trustees, employees, officers and agents to request Architect to perform Services or to provide materials, equipment and supplies that would result in Architect performing Services or providing materials, equipment and supplies that exceed the scope of the Services, materials, equipment and supplies agreed upon in this Agreement. Any modifications to the Services is subject to the District amending this Agreement in writing and approving the amendment as required by law to authorize the additional Services, materials, equipment or supplies.
- 5.03** District shall not reimburse Architect for Services, materials, equipment or supplies provided by Architect beyond the scope of the Services, materials, equipment and supplies agreed upon in the Agreement and unless approved by a written amendment to the Agreement having been executed and approved in the same manner as this Agreement.

ARTICLE 6 QUALIFIED PERSONNEL

- 6.01** For purposes of this Agreement, except for notices specified under ARTICLE 17 below, District and Architect shall direct all communications to each other as follows:

District

[ENTER DISTRICT CONTACT for day to day work]

[ENTER Address]

[ENTER Phone Number(s)]

[ENTER Email]

Architect

[ENTER ARCHITECT CONTACT]

[ENTER Address]

[ENTER Phone Number(s)]

[ENTER Email]

- 6.02** Services under this Agreement shall be performed only by qualified, competent personnel under the supervision of and/or in the employment of Architect. Architect shall conform with District's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at District's request, shall be supervised by Architect.
- 6.03** Architect agrees that all professional personnel assigned to the Project will be those listed in its Proposal, dated *[DATE]*, for the Project, and that the listed personnel will continue their assignments on the Project during the entire term of this Agreement. The parties recognize that the listed personnel may in the future cease to be employed by Architect and, because of the termination of such employment, is no longer able to provide Services. However, Architect agrees that replacement of any of the listed personnel during the Agreement period shall only be with other professional personnel who have equivalent experience and shall require the prior written approval of District. Any costs associated with replacement of personnel shall be borne exclusively by Architect. Resumes for all listed professional personnel are attached via Exhibit 1 to Appendix A, and by this reference incorporated herein.

- 6.04 Architect agrees that should the above personnel not continue their assignments on the Project during the entire term of this Agreement, then Architect shall not charge District for the cost of training or “bringing up to speed” replacement personnel. District may condition its reasonable approval of substitution personnel upon a reasonable transition period wherein new personnel will learn the Project and get up to speed at Architect’s cost.

ARTICLE 7 REPRESENTATIONS

- 7.01 Architect represents that it has reviewed Appendix A, Services to be Provided by Architect, and that in its professional judgment the Services to be performed under this Agreement can be performed for a fee within the maximum amount set forth in the Compensation Schedule established in Appendix B, Payments to Architect, and within the times specified in the Milestone Schedule.
- 7.02 Architect represents that it is qualified to perform the Services and that it possesses, and will continue to possess at its sole cost and expense, the necessary licenses and/or permits required to perform the Services or will obtain such licenses and/or permits prior to time such licenses and/or permits are required. Architect also represents that it has knowledge of, has reviewed and will comply with building codes, laws, regulations and ordinances applicable to the Services, and where compliance would be subject to the standard of care set forth in Paragraph 7.03 below.
- 7.03 Architect represents that it and its Subconsultants have specialized expertise in designing facilities similar to those intended for the Project. Architect’s Statement of Qualification, dated [Enter Date of SOQ], is incorporated herein by reference. Architect agrees that the Services shall be performed in a manner that conforms to the standards of professional practice observed by design professionals that regularly perform services pertaining to community college, University of California and/or California State University educational facilities similar to the Services (“**Standard of Care**”). Architect agrees that for a period of one year after the completion of the Services it will re-perform or replace any part or all of the Services deemed by District to be defective and/or not meeting the above standard.
- 7.04 The granting of any progress payment by District, or the receipt thereof by Architect, or any inspection, review, approval or oral statement by any representative of District or any other governmental entity, shall in no way waive or limit the obligations in this ARTICLE 7 or lessen the liability of Architect for unsatisfactory Services including, without limitation, cases where the defective or below standard Services may not have been apparent or detected at the time of such payment, inspection, review or approval.

ARTICLE 8 INDEMNIFICATION AND GENERAL LIABILITY

- 8.01 To the fullest extent permitted by California law for issues arising out of Architect’s professional services under this Agreement (including, without limitation, California Civil Code Sections 2782 and 2782.8), Architect shall indemnify and hold free and harmless District and its Board of Trustees, officers, agents, departments, officials, representatives and employees (collectively “**Indemnitees**”) from and against any and all claims, suit, action, loss, cost, damage, injury (including, without limitation, economic harm, injury to or death of an employee of Architect or its Subconsultants), expense and liability of every kind, nature and description, at law or equity (including, without limitation, incidental and consequential damages, court costs, attorneys’ fees, litigation expenses and fees of expert consultants or expert witnesses incurred in connection therewith and costs of investigation) (collectively, “**Claims**”), that arise out of, pertain to, or relate to (1) the negligent performance of Services under this Agreement, or (2) any negligence, recklessness, or willful misconduct of Architect, any Subconsultant, anyone directly or indirectly employed by them, or anyone that they control. Architect shall also, to the furthest extent permitted by California law and as applicable to claims based upon professional negligence in the performance of services under this Agreement, reimburse the **Indemnitees** for the attorneys’ fees and costs, from any and all Claims and allegations relating thereto in proportion to the finding of

fault as set out in Civil Code Section 2782.8. In all other instances the Architect shall to the furthest extent permitted by California Law defend the Indemnitees (with legal counsel reasonably acceptable to the District, at no cost to the District) attorney's fees and costs, from any and all other claims and allegations relating thereto.

Architect shall pay and satisfy any judgment, award, or decree that may be rendered against the **Indemnitees** in any Claim. Architect's obligation pursuant to Article 8.01 is limited to reimbursing the District for the cost of any settlement paid by the **Indemnitees** and for any and all fees and costs, including but not limited to legal fees and costs, expert witness fees, and consultant fees, incurred by the **Indemnitees** in the defense of any Claim(s), or to enforce the indemnity herein. Architect's obligation to defend or to indemnify shall not be restricted to insurance proceeds but shall be limited to the proportional percentage of fault of the Architect.

Further upon any judgement, award, or decree that may be rendered against the **Indemnitees** in any **Claim**, District may withhold any and all costs that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect from amounts owing to Architect limited to the proportional percentage of fault of the Architect.

- 8.02** Architect shall defend (including providing legal counsel reasonably acceptable to District at no cost to District), indemnify and hold harmless the Indemnitees from all loss, cost, damage, expense, suit, liability or claims, in law or in equity, including attorneys' fees, court costs, litigation expenses and fees of expert consultants or expert witnesses, that may arise at any time for infringement of the patent rights, copyright, trade secret, trade name, trademark, service mark or any other proprietary right of any person or persons in consequence of the use by District, or any of the other Indemnitees, of articles or services supplied or specified by Architect in the performance of this Agreement.
- 8.03** District shall include a provision in the construction contract with the prime Contractor on the Project requiring the prime Contractor to indemnify Architect for damages resulting from the negligence of the prime Contractor and its subcontractors. District shall also include a provision in the construction contract with the prime Contractor on the Project requiring the prime Contractor to name Architect as an additional insured on its Commercial General Liability insurance coverage. If the Architect has the opportunity to review the construction contract prior to bidding, the risk of an inadvertent omission of such provisions is on Architect.
- 8.04** Architect shall place in its subconsulting agreements and cause its Subconsultants to agree to indemnities and insurance obligations in favor of District and other Indemnitees in the exact form and substance of those contained in this Agreement.
- 8.05** District acknowledges that the discovery, presence, handling or removal of asbestos products, polychlorinated biphenyl (PCB) or other hazardous substances which may presently exist at the Project site is outside of Architect's responsibilities and expertise and is not included in the scope of Services Architect is to perform nor included in Architect's insurance. District shall hire an expert consultant in this field if the Project involves such materials. Architect shall not be responsible or be involved in any way with the discovery, presence, handling or removal of such materials. Architect shall be responsible to coordinate with District's expert consultant, should the need arise.

ARTICLE 9 LIABILITY OF DISTRICT

- 9.01** Except as provided in Appendix A, Services to be Provided by Architect, and Appendix E, Insurance, District's obligations under this Agreement shall be limited to the payment of the compensation provided for in ARTICLE 3 and ARTICLE 4 of this Agreement.
- 9.02** Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract, tort or otherwise, for any special,

consequential, indirect or incidental damages, lost profits or revenue, arising out of or in connection with this Agreement, the Services, or the Project.

- 9.03** District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by Architect, or by any of its employees, even though such equipment be furnished, rented or loaned to Architect by District. The acceptance or use of such equipment by Architect or any of its employees shall be construed to mean that Architect accepts full responsibility for and shall exonerate, indemnify, defend and save harmless District from and against any and all claims for any damage or injury of any type, including attorneys' fees, arising from the use, misuse or failure of such equipment, whether such damage be to the Architect, its employees, District employees or third parties, or to property belonging to any of the above.
- 9.04** Nothing in this Agreement shall constitute a waiver or limitation of any right or remedy, whether in equity or at law, which District or Architect may have under this Agreement or any applicable law. All rights and remedies of District or Architect, whether under this Agreement or other applicable law, shall be cumulative.

ARTICLE 10 INDEPENDENT CONTRACTOR; PAYMENT OF TAXES AND OTHER EXPENSES

- 10.01** Architect shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which Architect performs the Services required of Architect by the terms of this Agreement. Architect shall be fully liable for the acts and omissions of it its Subconsultants, its employees and its agents.
- 10.02** Nothing contained herein shall be construed as creating an employment, agency or joint venture relationship between District and Architect. Architect acknowledges that neither it nor any of its employees or agents shall, for any purpose whatsoever, be deemed to be District employees, and shall not be entitled to receive any benefits conferred on District employees, including without limitation workers' compensation, pension, health, insurance or other benefits.
- 10.03** Architect shall be solely responsible for payment of any required taxes, including California sales and use taxes, city business taxes and United States income tax withholding and social security taxes, levied upon this Agreement, the transaction, or the Services delivered pursuant hereto.
- 10.04** Architect shall make its designated representative available as much as reasonably possible to District staff during the District's normal working hours or as otherwise requested by District. Terms in this Agreement referring to direction from District shall be construed as providing for direction as to policy and the result of Architect's Services only and not as to the means by which such a result is obtained.

ARTICLE 11 INSURANCE

- 11.01** Prior to execution of this Agreement, Architect shall furnish to District Certificates of Insurance showing satisfactory proof that it maintains the insurance required by this Contract as set forth in Appendix E, Insurance, which is attached and made a part of this Agreement. Architect shall maintain all required insurance throughout the term of this Agreement and as otherwise provided in Appendix E. In the event Architect fails to maintain any required insurance, and notwithstanding Paragraph 4.05 above, District may, but is not obligated to, purchase such insurance and deduct or retain premium amounts from any sums due Architect under this Agreement (or Architect shall promptly reimburse District for such expense).

ARTICLE 12 SUSPENSION OF SERVICES

- 12.01** District may, without cause, order Architect to suspend, delay or interrupt Services pursuant to this Agreement, in whole or in part, for such periods of time as District may determine in its sole

discretion. District shall deliver to Architect written notice of the extent of the suspension at least seven (7) calendar days before the commencement thereof. Suspension shall be treated as an Excusable Delay and Architect shall be compensated for such delay to the extent provided under this Agreement.

- 12.02** Notwithstanding anything to the contrary contained in this ARTICLE 12, no compensation shall be made to the extent that performance is, was, or would have been so suspended, delayed, or interrupted by a cause for which Architect is responsible.

ARTICLE 13 TERMINATION OF AGREEMENT FOR CAUSE

- 13.01** If at any time District believes Architect may not be adequately performing its obligations under this Agreement, that Architect may fail to complete the Services as required by this Agreement, or has provided written notice of observed deficiencies in Architect's performance, District may request from Architect prompt written assurances of performance and a written plan, acceptable to District, to correct the observed deficiencies in Architect's performance ("**Cure Plan**"). The Cure Plan must include, as applicable, evidence of necessary resources, correction plans, Subconsultant commitments, schedules and recovery schedules, and affirmative commitments to correct the asserted deficiencies, must meet all applicable requirements and show a realistic and achievable plan to cure the breach. Architect shall provide such written assurances and Cure Plan within 10 calendar days of the date of notice of written request. Architect acknowledges and agrees that any failure to provide written assurances and Cure Plan to correct observed deficiencies, in the required time, is a material breach under this Agreement.

- 13.02** Architect shall be in default of this Agreement and District may, in addition to any other legal or equitable remedies available to District, terminate Architect's right to proceed under the Agreement, in whole or in part, for cause:

- A. Should Architect make an assignment for the benefit of creditors, admit in writing its inability to pay its debts as they become due, file a voluntary petition in bankruptcy, be adjudged a bankrupt or insolvent, file a petition or answer seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under any present or future statute, law, or regulation, file any answer admitting or not contesting the material allegations of a petition filed against Architect in any such proceeding, or seek, consent to, or acquiesce in, the appointment of any trustee, receiver, custodian or liquidator of Architect or of all or any substantial part of the properties of Architect, or if Architect, its directors or shareholders, take action to dissolve or liquidate Architect; or
- B. Should Architect commit a material breach of this Agreement and not cure such breach within 10 calendar days of the date of notice from District to Architect demanding such cure; or, if such failure is curable but not curable within such 10 calendar day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Architect to avail itself of this time period in excess of 10 calendar days, Architect must provide District within the 10 calendar day period a written Cure Plan acceptable to District to cure said breach, and then Architect must diligently commence and continue such cure according to the written Cure Plan); or
- C. Should Architect violate or allow a violation of any valid law, statute, regulation, rule, ordinance, permit, license or order of any governmental agency in effect at the time of performance of the Services and applicable to the Project or Services and does not cure such violation within 10 calendar days of the date of the notice from District to Architect demanding such cure; or, if such failure is curable, but not curable within such 10 calendar day period, within such period of time as is reasonably necessary to accomplish such cure. (In order for Architect to avail itself of this time period in excess of 10 calendar days, Architect must provide District within the 10 calendar day period a written Cure Plan acceptable to District, and then Architect must diligently commence and continue performance of such cure according to the written Cure Plan.)

- 13.03** In the event of termination by District as provided herein for cause:

- A. District shall compensate Architect for the value of the Services delivered to District upon termination as determined in accordance with the Agreement, subject to all rights of offset and backcharges, but District shall not compensate Architect for its costs in terminating the Services or any cancellation charges owed to third parties;
 - B. Architect shall deliver to District possession of all tangible aspects of the Services in their then condition including, without limitation, all copies (electronic CAD, BIM, and PDF format, and hard copy) of designs, engineering, Project records, cost data of all types, drawings and specifications and contracts with vendors and Subconsultants, and all other documentation associated with a Project, and all supplies and aids dedicated solely to performing Services which, in the normal course of the Services, would be consumed or only have salvage value at the end of the Services period.
 - C. Architect shall remain fully liable for the failure of any Services completed and drawings and specifications provided through the date of such termination to comply with the provisions of the Agreement. The provisions of this Article shall not be interpreted to diminish any right that District may have to claim and recover damages for any breach of this Agreement, but rather, Architect shall compensate District for all loss, cost, damage, expense, and/or liability suffered by District as a result of such termination and failure to comply with the Agreement, including without limitation District's costs incurred in connection with finding a replacement.
- 13.04** In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience pursuant to ARTICLE 14 below, and Architect shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense or liability may be claimed, requested or recovered by Architect.

ARTICLE 14 TERMINATION OF AGREEMENT FOR CONVENIENCE

- 14.01** District may terminate performance of the Services under the Agreement in accordance with this ARTICLE 14 in whole, or from time to time in part, whenever District shall determine that termination is in the District's best interests. Termination shall be effected by District delivering to Architect, at least seven (7) calendar days prior to the effective date of the termination, a Notice of Termination ("**Notice of Termination**") specifying the extent to which performance of the Services under the Agreement is terminated.
- 14.02** After receipt of a Notice of Termination, and except as otherwise directed by District, Architect shall:
- A. Stop Services under the Agreement on the date and to the extent specified in the Notice of Termination;
 - B. Place no further orders or subcontracts (including agreements with Subconsultants) for materials, Services, or facilities except as necessary to complete the portion of the Services under the Agreement which is not terminated;
 - C. Terminate all orders and subcontracts to the extent that they relate to performance of Services terminated by the Notice of Termination;
 - D. Assign to District in the manner, at times, and to the extent directed by District, all right, title, and interest of Architect under orders and subcontracts so terminated. District shall have the right, in its discretion, to settle or pay any or all claims arising out of termination of orders and subcontracts;
 - E. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with approval or ratification of District to the extent District may require. District's approval or ratification shall be final for purposes of this clause;
 - F. Transfer title and possession of Architect's and Architect's Subconsultants' work product to District, and execute all required documents and take all required actions to deliver in the manner, at times, and to the extent, if any, directed by District, completed and uncompleted designs and

specifications, Services in process, completed Services, supplies, and other material produced or fabricated as part of, or acquired in connection with performance of, Services terminated by the Notice of Termination (including mockups and model(s)), completed or partially completed plans, drawings, information, in hard-copy and electronic CAD, PDF, and Microsoft Word format, Building Information Management (BIM) software and data, all intellectual property rights (including without limitation, to the extent applicable, all licenses and copyright, trademark and patent rights) and all other property and property rights which, if the Agreement had been completed, would have been required to be furnished to District; District acknowledges that said documents were prepared for the purpose of the Project.

- G. Use its best efforts to assist District in selling, in the manner, at times, to the extent, and at a price or prices that District directs or authorizes, any property of the types referred to in Paragraph 14.02F above, but Architect shall not be required to extend credit to any purchaser, and may acquire any such property under conditions prescribed and at a price or prices approved by District. All proceeds from the foregoing shall be applied to reduce payments to be made by District to Architect under this Agreement, shall otherwise be credited to the price or cost of Services covered by this Agreement or be paid in such other manner as District may direct;
- H. Complete performance of any part of the Services that were not terminated by the Notice of Termination; and
- I. Take such action as may be necessary, or as District may direct, for the protection and preservation of property related to this Agreement which is in Architect's possession and in which District has or may acquire an interest.

14.03 After receiving a Notice of Termination, Architect shall submit to District a termination claim, in the form and with the certification District prescribes. The claim shall be submitted promptly, but in no event later than three months from the effective date of the termination, unless one or more extensions in writing are granted by District upon Architect's written request made within such three month period or authorized extension. However, if District determines that facts justify such action, it may receive and act upon any such termination claim at any time after such three month period or extension. If Architect fails to submit the termination claim within the time allowed, District may determine, on basis of information available to it, the amount, if any, due to Architect because of the termination. District shall then pay to Architect the amount so determined.

14.04 Subject to provisions of Paragraph 14.03 above, Architect and District may agree upon the whole or part of the amount or amounts to be paid to Architect because of any termination of Services under this Paragraph. The amount or amounts may include a reasonable allowance for profit on Services done. However, such agreed amount or amounts, exclusive of settlement costs, shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement price of Services terminated. The Agreement may be amended accordingly, and Architect shall be paid the agreed amount.

14.05 If Architect and District fail, under Paragraph 14.04 above, to agree on the whole amount to be paid to Architect because of termination of Services under this Paragraph 14.05, then Architect's entitlement to compensation for Services specified in the Agreement which are performed before the effective date of Notice of Termination, shall be the total (without duplication of any items) of:

- A. Reasonable value of Architect's Services performed prior to Notice of Termination, based on Architect's entitlement to compensation under Appendix B, Payments to Architect. Such amount or amounts shall not exceed the total Agreement price as reduced by the amount of payments otherwise made and as further reduced by the Agreement value of Services terminated. Deductions against such amount or amounts shall be made for deficiently performed Services, rework caused by deficiently performed Services, cost of materials to be retained by Architect, amounts realized by sale of materials, and for other appropriate credits against cost of Services. Such amount or amounts may include profit, but not in excess of 10 percent of Architect's total costs of performing the Services.

- B. When, in opinion of District, the cost of any item of Services is excessively high due to costs incurred to remedy or replace defective or rejected Services (including having to re-perform Services), reasonable value of Architect's Services will be the estimated reasonable cost of performing Services in compliance with the requirements of the Agreement, and any excessive actual cost shall be disallowed.
 - C. Reasonable cost to Architect of handling material returned to vendors, delivered to District or otherwise disposed of as directed by District.
- 14.06** Except as provided in this Agreement, in no event shall District be liable for costs incurred by Architect (or Subconsultants) after receipt of a Notice of Termination. Such non-recoverable costs include, but are not limited to, anticipated profits on the Agreement or subcontracts, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, costs of preparing and submitting claims or proposals, attorney's fees or other costs relating to prosecution of the claim or a lawsuit, pre-judgment interest, or any other expense that is not reasonable or authorized under Paragraph 14.05 above.
- A. This Paragraph shall not prohibit Architect from recovering costs necessary to discontinue further Services under the Agreement as provided for in Paragraph 14.01 above or costs authorized by District to settle claims from Subconsultants.
- 14.07** In arriving at amount due Architect under Paragraph 14.05 there shall be deducted:
- A. All unliquidated advance or other payments on account theretofore made to Architect, applicable to the terminated portion of Agreement,
 - B. Any substantiated claim that District may have against Architect in connection with this Agreement, and
 - C. The agreed price for, or proceeds of sale of, any materials, supplies, or other things kept by Architect or sold under the provisions of Paragraph 14.05, and not otherwise recovered by or credited to District.
- 14.08** If the termination for convenience hereunder is partial, before settlement of the terminated portion of this Agreement, Architect may file with District a request in writing for equitable adjustment of price or prices specified in the Agreement relating to the portion of this Agreement that is not terminated. District may, but shall not be required to, agree on any such equitable adjustment. Nothing contained herein shall limit the right of District and Architect to agree upon amount or amounts to be paid to Architect for completing the continued portion of the Agreement when the Agreement does not contain an established price for the continued portion. Nothing contained herein shall limit District's rights and remedies pursuant to this Agreement or at law.

ARTICLE 15 CONFLICTS OF INTEREST/OTHER AGREEMENTS

- 15.01** Architect represents that it is familiar with California Government Code Section 1090 and Section 87100, et seq., and that it does not know of any facts that constitute a violation of those sections.
- 15.02** Architect represents that it has completely disclosed to District all facts bearing upon any possible interests, direct or indirect, which Architect believes any member of District, or other officer, agent or employee of District or any department presently has, or will have, in this Agreement, or in the performance thereof, or in any portion of the profits thereunder. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by District for cause. Architect shall comply with the District's conflict of interest codes and their reporting requirements.
- 15.03** Architect covenants that it presently has no interest, and during the term of this Agreement shall not have any interest, direct or indirect, that would conflict in any manner with the performance of Services required under this Agreement. Without limitation, Architect represents to and agrees

with the District that Architect has no present, and in the future during the term of this Agreement will not have any, conflict of interest between providing the District the Services hereunder and any interest Architect may presently have, or will have in the future, with respect to any other person or entity (including, without limitation, any federal or state wildlife, environmental or regulatory agency) that has any interest adverse or potentially adverse to the District, as determined in the reasonable judgment of the District.

ARTICLE 16 PROPRIETARY OR CONFIDENTIAL INFORMATION OF DISTRICT; PUBLICITY

- 16.01** Architect acknowledges and agrees that, in the performance of the Services under this Agreement or in the contemplation thereof, Architect may have access to private or confidential information that may be owned or controlled by District and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to District. Architect agrees that all private, confidential, or proprietary information disclosed by District to or discovered by Architect in the performance of its Services shall be held in strict confidence and used only in performance of the Agreement. Architect shall exercise the same standard of care to protect such information as a reasonably prudent Architect would use to protect its own proprietary data, and shall not accept employment adverse to the District's interests where such confidential information could be used adversely to the District's interests. Architect shall notify the District immediately in writing if it is requested to disclose any information made known to or discovered by Architect during the performance of or in connection with the Services pursuant to this Agreement.
- 16.02** Any publicity or press releases with respect to the Project or Services shall be under the District's sole discretion and control. Architect shall not discuss the Services, the Project, or matters pertaining thereto, with the public press, representatives of the public media, public bodies or representatives of public bodies, without District's prior written consent. Architect shall have the right, however, without District's further consent, to include representations of Services among Architect's promotional and professional material, and to communicate with persons or public bodies where necessary to perform under this Agreement.
- 16.03** The provisions of this ARTICLE 16 shall remain fully effective indefinitely after termination of Services to the District hereunder.

ARTICLE 17 NOTICES TO THE PARTIES

- 17.01** All notices (including requests, demands, approvals or other communications other than ordinary course Project communications) under this Agreement shall be in writing and shall include the word "NOTICE" in the subject line.
- 17.02** Notice shall be sufficiently given for all purposes as follows:
- A. When personally delivered to the recipient, notice is effective on delivery.
 - B. When mailed by certified mail with return receipt requested, notice is effective on receipt if delivery is confirmed by a return receipt.
 - C. When delivered by reputable delivery service, with charges prepaid or charged to the sender's account, notice is effective on delivery if delivery is confirmed by the delivery service.
 - D. Notice by facsimile or electronic mail shall not be allowed or constitute "Notice" under this ARTICLE 17.
- 17.03** Any correctly-addressed notice that is refused, unclaimed, or undeliverable because of an act or omission of the party to be notified shall be considered to be effective as of the first date that the notice was refused, unclaimed, or considered undeliverable by the postal authorities, messenger, or overnight delivery service.

- 17.04** Addresses for the purpose of giving notice are set forth in ARTICLE 6 above. Either party may, by written notice given at any time or from time to time require subsequent notices to be given to another individual person, whether a party or an officer or a representative, or to a different address or fax number, or both, by giving the other party notice of the change in any manner permitted by this ARTICLE 17.

ARTICLE 18 OWNERSHIP OF RESULTS/WORK FOR HIRE

- 18.01** Any interest (including, without limitation, property interests and copyright interests) of Architect or its Subconsultants, in drawings, plans, specifications, studies, reports, memoranda, computational sheets or other documents (including without limitation, electronic media) prepared by Architect or its Subconsultants in connection with Services to be performed under this Agreement shall become the property of and will be transmitted to District upon their creation. Architect may, however, retain one copy for its files. Notwithstanding the foregoing, in the normal course of the Architect's activities, Architect shall have an unrestricted right to reuse its standard construction drawings, details, specifications and other related documents, including the right to retain electronic data or other reproducible copies thereof, and the right to reuse portions of the information contained in them which is incidental to the overall design of any Project.
- 18.02** Any and all artworks, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any original works of authorship created by Architect or its Subconsultants in connection with Services performed under this Agreement shall be Works for Hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of District. In the event that it is ever determined that any works created by Architect or its Subconsultants under this Agreement are not Works for Hire under U.S. law, Architect hereby assigns to District all copyrights to such works. With District's prior written approval, Architect may retain and use copies of such works for reference and as documentation of its experience and capabilities.
- 18.03** Both parties understand and agree that District must comply with the California Public Records Act ("Act"). If Architect believes that any document or information furnished to District in connection with Architect's performance of Services is exempt from public disclosure under the Act, it shall so advise District in writing at the time the document or information is furnished. Architect shall bear all costs and expenses to protect such information or documents to be protected from disclosure under the Act.

ARTICLE 19 AUDIT AND INSPECTION RECORDS

- 19.01** Architect shall maintain all drawings, specifications, calculations, cost estimates, quantity takeoffs, statements of construction costs and completion dates, schedules and all correspondence, internal memoranda, papers, writings, electronic media and documents of any sort prepared by or furnished to Architect during the course of performing the Services and providing services with respect to any Project, for a period of at least five years following final completion and acceptance of the last Project. All such records (except for materials subject to the attorney client privilege, if any) shall be available to District, and District's authorized agents, officers, and employees, upon request at reasonable times and places. Monthly records of Architect's personnel costs, Architect costs, and reimbursable expenses pertaining to both Design Services, and Additional Services shall be kept on a generally recognized accounting basis, and shall be available to District, and District's authorized agents, officers, and employees, upon request at reasonable times and places. Architect shall not destroy any Project records until after advising District and allowing District to accept and store the records.
- 19.02** Architect shall maintain full and adequate records in accordance with District requirements to show actual costs incurred by Architect in its performance of this Agreement, and to make available to District during business hours accurate ledgers, books of accounts, invoices, vouchers, cancelled checks, and accounting and other books, records and documents evidencing or relating to all

expenditures and disbursements charged to District or relative to Architect's activities under this Agreement. Architect will furnish to District, its authorized agents, officers and employees such other evidence or information as District may request with regard to any such expenditure or disbursement charged by Architect. Architect will, within seven (7) calendar days from the date of District's written request, permit District, and District's authorized agents, officers, and employees, to audit, examine and make copies, excerpts and transcripts from such items, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement.

- 19.03** Architect shall maintain all items described in this ARTICLE 19 in an accessible location and condition for a period of not less than five years after final completion and acceptance of the Project or until after final audit has been resolved, whichever is later. If such items are not kept and maintained by Architect within a radius of fifty (50) miles from District's offices in San Mateo, California, Architect shall, upon District's request and at Architect's sole cost and expense, make such items available to District, and District's authorized agents, officers, and employees, for inspection at a location within said fifty (50) mile radius, or Architect shall pay District its reasonable and necessary costs incurred in inspecting Architect's books and records including, without limitation, travel, lodging and subsistence costs. The State of California and any other governmental agency having an interest in the subject of this Agreement shall have the same rights conferred upon District by this Article.
- 19.04** The rights and obligations established pursuant to this Article shall be specifically enforceable and survive termination of this Agreement.

ARTICLE 20 SUBCONTRACTING/ASSIGNMENT/DISTRICT EMPLOYEES

- 20.01** Architect and District agree that Architect's unique talents, knowledge and experience form a basis for this Agreement and that the Services to be performed by Architect under this Agreement are personal in character. Therefore, Architect shall not subcontract, assign or delegate any portion of this Agreement or any duties or obligations hereunder unless approved by District in a written instrument executed and approved by the District in writing. Neither party shall, on the basis of this Agreement, contract on behalf of or in the name of the other party. Any agreement that violates this Paragraph 20.01 shall confer no rights on any party and shall be null and void.
- 20.02** Architect shall use the Subconsultants identified in this Agreement or an Exhibit hereto and shall not substitute Subconsultants unless approved by written instrument executed and approved by the District in writing.
- 20.03** To the extent Architect is permitted by District in writing to subcontract, assign or subcontract any portion of this Agreement or any duties or obligations hereunder, Architect shall comply with all applicable prompt payment laws and regulations (including, without limitation, California Civil Code, Section 3321). Architect shall remain fully liable and responsible for all acts and omissions of its Subconsultants in connection with the Services or the Project, as if it engaged it the acts and omissions directly.
- 20.04** Architect shall not employ or engage, or attempt to employ or engage, any person who is or was employed by District or any department thereof at any time that this Agreement is in effect, and for a period of two years after the termination of this Agreement or the completion of the Services, without the written consent of District.

ARTICLE 21 OTHER OBLIGATIONS

- 21.01** Discrimination, Equal Employment Opportunity and Business Practices. Architect shall not discriminate against any employee or applicant for employment, nor against any Subconsultant or applicant for a subcontract, because of race, color, religious creed, age, gender, actual or perceived

sexual orientation, national origin, disability as defined by the ADA (as defined below) or veteran's status. To the extent applicable, Architect shall comply with all federal, state and local laws (including, without limitation, City and County ordinances, rules and regulations) regarding non-discrimination, equal employment opportunity, affirmative action and occupational-safety-health concerns, shall comply with all applicable rules and regulations thereunder, and shall comply with same as each may be amended from time to time.

- 21.02** Drug-Free Workplace Policy. Architect acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on District premises. Architect agrees that any violation of this prohibition by Architect, its employees, agents or assigns shall be deemed a material breach of this Agreement.
- 21.03** Compliance with Americans with Disabilities Act and Rehabilitation Act. Architect acknowledges that, pursuant to the Americans with Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Architect shall provide the Services specified in this Agreement in a manner that complies with the standard of care established under this Agreement regarding the ADA and any and all other applicable federal, state and local disability rights legislation. Architect agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement, and further agrees that any violation of this prohibition on the part of Architect, its employees, agents or assigns shall constitute a material breach of this Agreement. Architect shall comply with Section 504 of the Rehabilitation Act of 1973, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this Agreement.
- 21.04** Violation of Non-Discrimination Provisions. Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and may subject the Architect to penalties, to be determined by District's Executive Vice Chancellor or designee including, without limitation: (a) termination of this Agreement; (b) disqualification of the Architect from bidding on or being awarded a District contract for a period of up to 3 years; (c) liquidated damages of \$2,500 per violation; and/or (d) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the Executive Vice Chancellor or designee. To effectuate the provisions of this section, the Executive Vice Chancellor or designee shall have the authority to examine Architect's employment records with respect to compliance with this paragraph and/or to set off all or any portion of the amount described in this paragraph against amounts due to Architect under this Agreement or any other agreement between Architect and District. Architect shall report to the Executive Vice Chancellor or designee the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Architect that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Architect shall provide District with a copy of its response to the complaint when filed.

ARTICLE 22 DISPUTES

- 22.01** Should any question arise as to the meaning and intent of this Agreement, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Project Manager ("**Project Manager**") and a principal of the Architect who shall attempt, in good faith, to resolve the dispute. Such referral shall be initiated by written request from either party, and a meeting between the Project Manager and principal of the Architect shall then take place within five (5) days of the date of the request.

- 22.02** Provided that District continues to compensate Architect in accordance with this Agreement, Architect shall continue its Services throughout the course of any and all disputes. Nothing in this Agreement shall allow Architect to discontinue Services during the course of any dispute. Architect's failure to continue Services during any and all disputes shall be considered a material breach of this Agreement. Architect agrees that the existence or continued existence of a dispute does not excuse performance under any provision of this Agreement including, without limitation, the time to complete the Services. Architect also agrees that should Architect discontinue Services due to a dispute or disputes, District may terminate this Agreement for cause as provided herein.
- 22.03** In the event of claims exceeding **\$50,000**, as a precondition to commencing litigation, the parties shall first participate in non-binding mediation pursuant to the construction mediation procedures of JAMS (an alternative dispute resolution (ADR) process), in San Francisco, California, before a mediator mutually agreeable to the parties, and in the event the parties are unable to agree, selected by a judge of the San Mateo County Superior Court from an approved list of JAMS qualified construction mediators. The parties shall, prior to the commencement of a mediation pursuant to this Paragraph, upon notice of the other party, exchange relevant, non-privileged project documents in compliance with California Civil Procedure Code Section 2031.010, et seq. Additionally, the parties may agree to engage in discovery prior to mediation. Should parties proceed with discovery, they shall follow the procedures prescribed in the California Code of Civil Procedure, Section 2019, et. seq., and discovery so conducted shall apply in any subsequent litigation as if conducted in that litigation.

ARTICLE 23 AGREEMENT MADE IN CALIFORNIA; VENUE

- 23.01** This Agreement shall be deemed to have been executed in the City of San Mateo, County of San Mateo, California. The formation, interpretation and performance of this Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The exclusive venue for all disputes or litigation arising out of this Agreement shall be in the Superior Court of the County of San Mateo unless the parties agree otherwise in a written amendment to this Agreement.
- 23.02** If both District and Architect wish to permit this Agreement and future documents relating to this Agreement to be digitally signed in accordance with California Law, both boxes below must be checked. Any party that agrees to allow digital signature of this Agreement may revoke such agreement at any time in relation to all future documents by providing written notice to the other party.
- For District: ☒ If this box is checked by District, District consents to the use of electronic signatures in relation to this Agreement.
- For Architect: ☒ If this box is checked by Architect, Architect consents to the use of electronic signatures in relation to this Agreement.
- 23.03** If both parties elect to not consent to electronic signatures per Paragraph Section 23.02 above, the parties shall execute **two** hard copy originals of this Agreement, both of which shall be deemed originals.

ARTICLE 24 COMPLIANCE WITH LAWS

- 24.01** Architect shall comply with the Standard of Care in the interpretation and application of all applicable laws in the performance of the Services, regardless of whether such laws are specifically stated in this Agreement and regardless of whether such laws are in effect on the date hereof. Architect shall comply with all security requirements imposed by authorities with jurisdiction over any Project, and will provide all information, work histories and/or verifications as requested by such authorities for security clearances or compliance.

- 24.02** Architect represents that all plans, drawings, specifications, designs and any other product of the Services will comply with all applicable laws, codes and regulations and be consistent with the Standard of Care.

ARTICLE 25 MISCELLANEOUS

- 25.01** All section and paragraph captions are for reference only and shall not be considered in construing this Agreement.
- 25.02** As between the parties to this Agreement: as to all acts or failures to act by either party to this Agreement, any applicable statute of limitations shall commence to run on the date of issuance by District of the final Certificate for Payment, or termination of this Agreement, whichever is earlier. Attention is directed to paragraph 4.03 above regarding final payment. This Paragraph 25.02 shall not apply to latent defects as defined by California law or negligence claims, as to which the statute of limitations shall commence to run on discovery of the defect and its cause. However, the applicable statutes of repose, California Code of Civil Procedure, Sections 337.1 and 337.15, shall continue to apply.
- 25.03** Any provisions or portion thereof of this Agreement that is prohibited by, unlawful or unenforceable under any applicable law of any jurisdiction, shall as to such jurisdiction be ineffective without affecting other provisions of this Agreement. If the provisions of such applicable law may be waived, they are hereby waived to the end that this Agreement may be deemed to be a valid and binding agreement enforceable in accordance with its terms. If any provisions or portion thereof of this Agreement are prohibited by, unlawful, or unenforceable under any applicable law and are therefore stricken or deemed waived, the remainder of such provisions and this Agreement shall be interpreted to achieve the goals or intent of the stricken or waived provisions or portions thereof to the extent such interpretation is consistent with applicable law. In dispute resolution arising from this Agreement, the fact finder shall receive detailed instructions on the meaning and requirements of this Agreement.
- 25.04** Either party's waiver of any breach, or the omission or failure of either party, at any time, to enforce any right reserved to it, or to require performance of any of the terms, covenants, conditions or other provisions of this Agreement, including the timing of any such performance, shall not be a waiver of any other right to which any party is entitled, and shall not in any way affect, limit, modify or waive that party's right thereafter to enforce or compel strict compliance with every term, covenant, condition or other provision hereof, any course of dealing or custom of the trade or oral representations notwithstanding.
- 25.05** Except as expressly provided in this Agreement, nothing in this Agreement shall operate to confer rights or benefits on persons or entities not party to this Agreement. Time is of the essence in the performance of this Agreement.

ARTICLE 26 ENTIRE AGREEMENT; MODIFICATIONS

- 26.01** The Agreement, and any written modification to the Agreement, shall represent the entire and integrated Agreement between the parties hereto regarding the subject matter of this Agreement and shall constitute the exclusive statement of the terms of the parties' agreement. The Agreement, and any written modification to the Agreement, shall supersede any and all prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement or written modification, and the parties represent and agree that they are entering into this Agreement and any subsequent written modification in sole reliance upon the information set forth in the Agreement or written modification and the parties are not and will not rely on any other information. All prior negotiations, representations or agreements, either written or oral, express or implied, that relate in any way to the subject matter of this Agreement, shall not be admissible or referred to hereafter in the interpretation or enforcement of this Agreement.

- 26.02** To the extent this Agreement conflicts with the terms of any proposal, District issued Purchase Order (including any terms and conditions attached thereto), invoice, or other document submitted to or by either party, the terms of this Agreement shall control.
- 26.03** This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved by a fully authorized representative of both District and Architect expressing such an intention in the case of a modification or by the party waiving in the case of a waiver.
- 26.04** Architect, in any price proposals for changes in the Services that increase the Agreement amount, or for any additional Services, shall break out and list its costs and use percentage markups. Architect shall require its Subconsultants (if any) to do the same, and the Subconsultants' price proposals shall accompany Architect's price proposals.
- 26.05** Architect and its Subconsultants shall, upon request by District, permit inspection of all original unaltered Agreement bid estimates, subcontract Agreements, purchase orders relating to any change, and documents substantiating all costs associated with all cost proposals.
- 26.06** Changes in the Services made pursuant to this ARTICLE 26 and extensions of the Agreement time necessary by reason thereof shall not in any way release Architect's representations and agreements pursuant to this Agreement.
- 26.07** Whenever the words "**as directed**", "**as required**", "**as permitted**", or words of like effect are used, it shall be understood as the direction, requirement, or permission of District. The words "**approval**", "**acceptable**", "**satisfactory**", or words of like import, shall mean approved by, or acceptable to, or satisfactory to District, unless otherwise indicated by the context.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day first mentioned above.

"DISTRICT"

SAN MATEO COUNTY COMMUNITY COLLEGE
DISTRICT

By: Bernata Slater
Its: Chief Financial Officer
Date: _____

"ARCHITECT"

[ARCHITECT]

By: [Authorized Signer]
Its: [Authorized Signer's Title]
Date: _____

**APPENDIX A
SERVICES TO BE PROVIDED BY ARCHITECT
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APPENDIX A

SERVICES TO BE PROVIDED BY ARCHITECT

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT] (“**Architect**”) providing for professional services.

ARTICLE 1 PROJECT UNDER THIS AGREEMENT

1.01 General

- A. The Project is described as follows: [INSERT PROJECT DESCRIPTION] (**Project**)
- B. The Project is a part of District’s Capital Improvement Program (“**Program**”)
- C. The Project’s delivery method will be Design-Bid-Build (D-B-B). [Add other information in relation to Project’s delivery method, etc.]
- D. [AMOUNT IN WORDS] \$_____ Budgeted Bid Day Construction Cost *[to be provided by District]*

1.02 Schedule. Attention is directed to Agreement’s Appendix C, Milestone Schedule, and to the Master Schedule (see 3.04B below).

1.03 Construction Budget

- A. The agreed upon “**Budgeted Bid Day Construction Cost**” above means the anticipated value of the construction contract for the Project when initially let. Architect shall treat the Budgeted Bid Day Construction Cost so identified as the District’s required construction cost for the Project. In performing its Services under this Agreement, Architect shall include within the Budgeted Bid Day Construction Cost design contingency amounts as follows: 15% during schematic design; 10% during design development; 5% during construction documents.

ARTICLE 2 GENERAL REQUIREMENTS

2.01 Application. The General Requirements stated here in Appendix A, ARTICLE 2, shall apply to any provision of Services under this Agreement, whether Services encompass the entirety of this Appendix A, individual Tasks, or portions thereof.

- A. Scope of Services. Unless specifically excluded from this Agreement, Architect shall provide to District all professional architectural and engineering services necessary to complete the Services under this Agreement including, without limitation, all architectural services and all acoustical, civil, electrical, fire protection, mechanical, structural, landscape, cost estimating services, and others as required on the Project.
- B. Project Phases. Architect will perform Services during the following Project Phases:
 - 1. Programming Phase (ARTICLE 4)
 - 2. Schematic Design Phase (ARTICLE 5)
 - 3. Design Development Phase (ARTICLE 6)
 - 4. Construction Document Phase (ARTICLE 7)
 - 5. Bidding Phase (ARTICLE 8)
 - 6. Construction Contract Administration Phase (ARTICLE 9)
 - 7. Operation/Project Close-Out Phase (ARTICLE 10)

2.02 General Criteria Governing Architect's Services on Project

- A. Compliance with Laws and Standard of Care. The Project shall be developed and designed to meet all applicable and the most current codes, laws, regulations, and professional standards, including, without limitation, the requirements of the California Business and Professions Code, the California Education Code, and the California Code of Regulations, including without limitation Title 24, Part 1 California Building Standards Administrative Code ("**Title 24**"), California Environmental Quality Act ("CEQA"), and the District's associated Environmental Impact Report ("EIR"), regardless of whether such laws are specifically stated in this Agreement and regardless of whether such laws are in effect on the Agreement execution date including, without limitation, existing and future regulations regarding review and certification requirements of evidence-based practice projects, consistent with the Standard of Care, and shall satisfy all criteria contained in this Agreement and in any District-established criteria.
1. The Project design shall conform to the District's Design Standards as enumerated in Appendix H to this agreement. Any proposed deviations from the District Design Standards shall be submitted for District approval prior to being incorporated into the construction documents.
- B. Licensed Personnel. All Plans, Specifications, design calculations, Site data, and cost estimates, if any, required to be prepared by Architect shall be prepared by licensed personnel or personnel under the direction of licensed personnel, as required by the California Education Code and Code of Regulations, and such personnel shall also be in general responsible charge of observation of the construction, as required by those codes.
- C. Performance Specifications. Architect shall not, unless otherwise permitted in writing by Project Manager, propose or recommend any design which has the effect of shifting design responsibilities from Architect to a contractor, through performance specifications or any other means. Performance specifications will be allowed only when necessary to preclude single vendor sources. District and Architect agree that preliminary plans and specifications may be required to procure proprietary engineering construction documents so as to gain Division of State Architect (**DSA**) approval for the following building components: **[PM conform to specific Project – i.e. large glazed openings, structural glazing or cladding or curtain wall systems; large storefront systems; large skylights, basketball backstops, indoor or outdoor bleachers, elevators, fire/life safety systems, and shade structures.**
- D. Restrictions on Sole-Source Equipment, etc. Architect shall not, unless otherwise directed or permitted in writing by Project Manager, specify unique, innovative, proprietary or sole source equipment, systems or materials. Whenever a proprietary or sole source design or equipment is requested by Architect, Architect shall provide District with a written evaluation of whether all periodic maintenance and replacement of parts, equipment or systems, can be performed normally and without excessive cost or time. District will consider such report in making its decision. If requested by District, as Design Services, Architect shall comment on any District-proposed unique, innovative, proprietary or sole source equipment, systems or materials.
- E. Accessibility. Architect's design shall provide that all surfaces, fixtures and equipment are readily accessible for maintenance, repair or replacement by ladders, power lifts, cat walks, and the like without exceeding the design loads of the floors, roofs, ceilings, and that such access is in conformance with all applicable legal requirements in effect as of the date the design is completed. Architect shall allow representatives of the District's operation and maintenance departments to review, comment, and participate in meetings regarding Architect's design as necessary to consider their requirements in design development, provided, however, that Architect shall exercise its professional judgment respecting all ultimate design decisions.
- F. The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Contract for Construction. Without in any way limiting the Architect's responsibilities and obligations under Title 21 of the California Code of Regulations or the Building Standards published by the ICBO

(Title 24 of the California Code of Regulations) the Architect shall not otherwise be responsible for the Contractor's schedules or failure to carry out the Work of the Project in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work of the Project.

- G. Energy Savings. Design documents shall include all energy saving calculations and deliverables necessary for District for submission to PG&E, DSA, the State Office of Energy Assessments, and any other Authority Having Jurisdiction, for energy savings rebates and unconventional energy rebates (PG&E's Savings by Design) and any additional information required. Architect shall monitor construction for compliance with such rebate requirements and report to District any problems encountered or anticipated.
- H. **[Delete this paragraph if not a LEED project].** Architect shall take all steps necessary to coordinate and fully comply with United States Green Building Council's requirements for LEED certification at the **[choose basic, silver, gold, platinum]** level and incorporate sustainable design measures to exceed Title 24 Part 6 California Energy Code requirements by 15% or greater. Architect shall conduct workshops with the District throughout the design phases to ascertain and obtain approval of the sustainable design measures to be included in the project.
- I. The architect will be responsible for updating data elements in FUSION for the JCAF-31 (Analysis of Building Space Use) and JCAF-32 (Cost Estimate Summary and Anticipated Time Schedule) as a project progresses through design phase and upon completion/close-out.
- J. For Capital Outlay Funded projects, the architect will be responsible for assuring that the project scope (ASF by room type/use) and costs do not deviate from the description and content in the most recently state-approved Final Project Proposal.
- K. Coordination of Architectural and Engineering Subconsultants/Other Architects.
 - 1. Architect shall fully coordinate all architectural and engineering disciplines and Subconsultants involved in completing the Services. Architect's Subconsultants shall fully coordinate with Architect and all architectural and engineering disciplines and Subconsultants involved in completing the Services. The objective of this coordination shall be the development of a complete, comprehensive and workable design in which the work of Architect and each Subconsultant interfaces well and is properly coordinated, architecturally sound, and well engineered, with details that work together with regard to all affected disciplines.
 - 2. Architect shall coordinate its Services on the Project and the District's CIP3 Program with District personnel (including Project Manager) and services of other consultants on other projects in the Program, as directed by Project Manager, as necessary to specify designs, equipment and systems on a Program-wide basis to secure Program-wide efficiencies and economies in procurement and maintenance. Architect shall not have responsibility for the technical adequacy or accuracy of consultants separately engaged by District.
 - 3. The District is committed to maintaining professional collaborative and collegial relationships between all project participants. To that end, the design team may be required to participate in a partnering process together with the District and other Project team members, as directed by Project Manager. These partnering sessions are generally one half to one day in duration and may be up to [number] sessions.
 - 4. Architect shall coordinate its Services on the Project with services of the District's separately maintained hazardous material consultants. Such coordination shall not impose on Architect responsibility for the services of the hazardous materials consultants. However, Architect shall consider the services of the hazardous materials consultants in developing work phasing recommendations, overall cost estimates, and design and product specifications, where applicable.

5. Architect shall immediately advise District in writing if any District consultant fails in any manner to coordinate its services with Architect.
- L. Corrections. Architect shall make any required corrections or revisions to any plans, specifications, design computations, other data and documents authorizing changes in the approved drawings and specifications as required by conditions on the Project. Architect shall make all required corrections and revisions, including, without limitation, those necessary to comply with all applicable laws and regulations including, without limitation, Title 24, at no additional cost to District.
- M. Additional Information. Throughout Architect's performance of the Services, Architect shall make written recommendations to District concerning any additional information necessary to complete the Services.

2.03 General Criteria Governing Architect's Deliverables on Project

- A. General. District reserves the right to establish the form and format for any deliverable under this Agreement.
- B. All Architect's Deliverables to be Manipulable. All Architect's deliverables under this Agreement shall, unless otherwise specifically requested by District, be in manipulable native/source electronic files. Without limiting the generality of the foregoing:
 1. All written submittals, including reports, recommendations, proposals and Specifications, shall be in Microsoft Word or (if applicable) Excel, 2007 or newer.
 2. All design deliverables shall be in AutoCAD, ArchiCAD, Revit, or BIM.
 3. All deliverables involving models prepared using specialized modeling software (such as Navisworks, eQuest, etc.) shall include the original files from the software.
 4. If requested, deliverables shall also be in electronic PDF or paper hard copy.
- C. Internet-Based Project Management System. District may utilize an electronic internet-based project management system ("PMS") to manage and record Project documents. District shall provide Architect and (as applicable) Subconsultants with all necessary PMS software, access codes, and training. Unless otherwise directed by District, all Architect's deliverables under this Agreement (including drafts, finals, etc.) shall be transferred to and from the District utilizing the PMS. District reserves the right to request from or transfer to Architect any deliverables in any other manner. Architect shall not use any aspect of the PMS for any purpose other than Project, and District may terminate Architect's access to the PMS following termination of Architect or Project completion.
- D. Paper Construction Documents. Notwithstanding the foregoing, only permitted paper documents indicating they are "For Construction" are Construction Documents, and may be relied upon for construction of the Project.

2.04 Building Information Modeling *[If Applicable]*

- A. As used herein, the term "BIM" shall mean, collectively, the building information models incorporating the design and engineering of the Project in order to provide a digital representation of the physical and functional characteristics of the completed Project, all as more particularly described in Appendix F, Building Information Modeling.
- B. District, Architect, Subconsultants, Construction Manager and Trade Subcontractors will use BIM in connection with the design and construction of the Project. The Project's BIM shall be developed in accordance with the Level of Development 300 (LOD 300): Model elements are suitable for the generation of traditional construction documents and shop drawings. As such, analysis and simulation is authorized for detailed elements and systems. Furthermore, BIM protocol shall be compliant with District Design Standards.

- C. Architect shall comply with its obligations regarding Building Information Modeling as indicated in Appendix F, "Building Information Modeling".
- D. Appendix F BIM is subject to modification by District at District's reasonable request. Architect must notify District within seven (7) days of receipt of any modification to Appendix F if it believes the modification is so extensive as to justify additional services compensation.

ARTICLE 3 DESIGN SERVICES

3.01 Scope

- A. Design Services shall include all the services and activities specified below, including without limitation all coordination and cooperation, in all Phases identified in Paragraph 2.01B. District may request additional services in writing from the Architect (ARTICLE 11)
- B. District received from Architect a written Proposal dated [Insert Proposal Date Month dd, YYYY] for the Project. The scope of services portions of the Proposal were used in developing this Appendix A. However, the Proposal is neither incorporated into nor made a part of this Agreement. In addition, under no circumstances may the Proposal change, supplement, or modify commercial terms or other items addressed in other appendices to this Agreement.

3.02 General Description and Requirements

- A. Coordination of Design. Architect shall fully coordinate all architectural and engineering disciplines and Subconsultants involved in completing its Services. Architect's Subconsultants shall fully coordinate with Architect and all architectural and engineering disciplines and Subconsultants involved in completing the Services. Architect shall conduct design coordination meetings with its Subconsultants and with any District consultants on this or related projects for coordination of design. The objective of this coordination shall be the development of a design in which the work of Architect and each Subconsultant interfaces well and is properly coordinated, architecturally sound, and well-engineered, with details that work together with regard to all affected disciplines.
- B. Coordination with District. Architect shall continuously coordinate with District regarding all required District and Architect/third party interface, for example, approvals, reviews, design input and supplying information. In all phases of the Services, Architect shall work cooperatively with District, Contractor (once engaged), and any of District's other consultants with the objective of delivering the Project within schedule, within the District's construction budget, and Architect's accepted estimates, and with the required level of quality. This duty will include, but not be limited to, furnishing complete and timely responses to reasonable requests for information, providing reasonable advance notice of meetings, providing decisions within a reasonable time, sharing non-proprietary information with other Project and Program participants, communicating through designated representatives of other Project and Program participants, and fulfilling Architect's commitments made to other Project and Program participants.
 - 1. Architect shall coordinate its work on the Project with District personnel and work of other consultants on the Project (including Project Manager) and Program, as directed by Project Manager, as necessary to achieve desired Project- and Program wide efficiencies in procurement and maintenance; including design and coordination for FF&E, IT/AV, and other specialized equipment and furnishings.
 - 2. Architect shall immediately advise District in writing if any consultant fails in any manner to coordinate its work with Architect.
 - 3. To the extent necessary to complete its design services for the Project, Architect shall review, update and verify all as-built information supplied by District concerning existing structures, facilities and utilities.
 - 4. Architect shall provide District with written evaluations of the effect of any and all governmental and private regulations, licenses, patents, permits, and any other type of applicable restrictions and associated requirements on the Services and its incorporation into the Project.

5. Architect shall provide District with a copy of all written communications and submittals to third parties regarding the Project.
 - C. District Reviews and Approvals. Architect shall obtain District written approval of each design phase submittal before proceeding with the next phase. Such District reviews require a complete submittal that includes all required deliverables and Architect's presentation of same (e.g., cost estimates submittals are required with plans and written documents). District may optionally provide Architect written or verbal review comments and request further information or changes in the deliverables before approving that phase. Changes inconsistent with previous approvals or directives shall be considered Additional Services.
 - D. Subconsultants and Materials.
 1. Architect shall engage all appropriate specialty Subconsultants as are necessary for proper completion of the Services, at the sole expense of Architect. Architect's contracts with Subconsultants (and their contracts with their subconsultants) shall incorporate this contract by reference to the extent it is not inconsistent with Subconsultants' scope of work. District shall have the right (but not the obligation) to approve specialty Subconsultants engaged by Architect, as well as their form of contract, which approval shall not be unreasonably withheld.
 2. Architect shall require each of its Subconsultants to execute agreements containing standard of care and indemnity provisions coextensive with those in this Agreement and that will defend, indemnify, and hold District harmless from any negligent errors or omissions of the Subconsultants.
 3. Architect shall have adequate personnel, facilities, equipment and supplies to complete Architect's Services. Architect shall provide all materials to complete the Services.
 - E. Evaluations. Architect shall provide District with written evaluations of the effect of any and all governmental and private regulations, licenses, patents, permits, and any other type of applicable restrictions and associated requirements on the Services and its incorporation into the Project.
- 3.03 Title 24 Compliance and Coordination with DSA.** Architect shall comply with the standard of care applicable under this Agreement, regarding compliance with all requirements of all applicable laws and regulations as if set forth in this Agreement including, without limitation, Title 24, and all requirements of the DSA. Architect shall perform all duties that Title 24 and the DSA impose on community college project architects and engineers including, without limitation, the following:
- A. Prepare all Project designs to meet building standards set forth in Title 24 and exceed Title 24 Part 6 California Energy Code requirements by 15%, which exceeds the minimum standards applicable to school construction; coordinate submission and approval of same to DSA and the California State Chancellor's Office (CSCO) and any other public Authority Having Jurisdiction.
 - B. Designate an architect or structural engineer in general responsible charge, and cause the designated individual to comply with all obligations Title 24 specifies for that individual.
 - C. In conjunction with the DSA's Collaborative Process for Community Colleges, DSA Bulletin 09-07, coordinate and cooperate fully with DSA and the CSCO and any other Authority Having Jurisdiction, to secure their timely review and approval, including without limitation:
 1. Determine and advise District on four (4) weeks advance notice all necessary DSA fees, so as to avoid any delay;
 2. Determine the estimated time from submission to DSA and CSCO of plans and specifications to approval of same, including "bin time" for initial review of plans and specifications, and incorporating same into the Master Schedule;
 3. Provide any specific deliverables required by DSA or government agencies including, without limitation, any required building diagrams and ADA compliance surveys/reports;
 4. Advise on selection of:

- (a) Construction Contractor (as applicable); and
 - (b) Project Inspector and testing laboratories;
- 5. Establish the extent of the testing of materials consistent with the needs of the Project, issue specific instructions to the testing agency prior to the start of construction, and notify DSA as to the disposition of materials noted on laboratory reports as not conforming to the DSA-approved specifications;
- 6. Secure from DSA change order pre-approvals, where appropriate to minimize Project delays caused by delays in review and approval of change orders;
- 7. Secure early review and approval by DSA of deferred approval items, including advising District of the need to require immediate submission after construction contract award of all necessary submittals for such items, including specifications to this effect in final design documents, and review of proposed Contract Documents to assure presence of necessary enforcement provisions (for list of acceptable deferred approval items see "Deferred Approval Process" on DSA's website: <http://www.dgs.ca.gov>;
- 8. Prepare addenda and change orders as required by conditions on the Project;
- 9. Perform general observation of the work of construction, interpreting the DSA-approved drawings and specifications;
- 10. Coordinate and cooperate fully with the DSA in its required observation of construction;
- 11. Receive and act upon all technical correspondence from DSA to the architect or engineer in general responsible charge of the Project;
- 12. Issue Verified Reports in the form and frequency required by Title 24, showing of Architect's personal knowledge that the work is in every material respect in conformance with the DSA-approved plans and specifications. Require that Verified Reports from Project Inspector(s), Contractor, Subconsultant and other architects and engineers are submitted as required by Title 24;
- 13. Without limiting any of the foregoing, perform all responsibilities imposed upon it under Title 24 including, without limitation, observation and personal contact with the Project, Subconsultants, submission of information to DSA, and general direction of the work of the Project Inspector (as contemplated by Title 24).
- D. District will engage Project Inspector(s) as required by the California Education Code and Title 24. Project Inspectors shall be under the general direction of Architect, as required by the California Code of Regulations, Title 24.

3.04 Coordination with Master Project Schedule and District Operations

- A. Architect shall complete or cause to be completed all services required under this Agreement in accordance with the Milestone Schedule attached to the Agreement as Appendix C, as well as *[if applicable: the Master Program Schedule and]* this Project's Master Schedule and Milestone Schedule to be developed by District ("**Master Schedule**").
- B. For each Phase of the Services under this Agreement, Architect shall prepare and submit for District's acceptance a task list identifying the principal tasks (and subtasks) defining the scope of Services of each Phase. The main purpose of the task list shall be to promote coordination and scheduling of the District and third parties whose actions might impact Architect's progress.
 - 1. The task list submitted shall be coordinated with the Master Schedule and identifiable by bid/proposal/contract package. The task list for each Phase of the Services under this Agreement shall be submitted with the deliverables at the conclusion of the previous phase of the Services under this Agreement.
 - 2. The task list shall list all points of District and third party interface including, for example, approvals, reviews, design input and supplying information. The task list shall include a

listing of Architect's anticipated specific requirements for information, decisions or documents from District necessary for Architect's performance of its services, and required third party approvals and preliminary meetings required to obtain agreement in principle with agencies and third parties involved in the Project.

- C. For the Project, Architect shall prepare, submit for District's acceptance, and maintain a design schedule detailing, Architect's scheduled performance of the Services. The schedule shall fit within and coordinate with the overall Master Schedule and Milestone Schedule, including any and all design interfaces referenced in the Master Schedule and all updates to the Master Schedule.
 - 1. Architect shall submit a preliminary schedule within twenty (20) days of commencement of the Programming Phase (covering in summary fashion all Services of each phase of the Project).
 - 2. For each succeeding Phase of Services, Architect shall supplement this schedule with a detailed schedule covering by task (and subtask) Architect's Services during the succeeding Phase. (The required schedule supplement shall be submitted as part of Architect's deliverables at the conclusion of the current Phase of Services.)
- D. Architect's schedule shall be updated monthly, and shall meet the following requirements:
 - 1. Architect's schedule shall outline dates and time periods for the delivery of Architect's services, requirements for information from District for the performance of its services, and required third party approvals and preliminary meetings required to obtain agreement in principal with its subconsultants, and any other agencies and tenants involved in the Project.
 - 2. The schedule shall include appropriate District and third party design review durations for each contract package (in minimum durations of **[four]** weeks for Schematic Phase, Design Development Phase, and 50% Construction Document phase, and **[four]** weeks for 100% Construction Documents Phase.)
 - 3. The schedule shall be in a computer software format compatible with District's existing computer software format, which is Microsoft Project. If the software program is other than Microsoft Project, provide the District with a copy and license for the software program being used.
- E. Architect shall adjust and cause its Subconsultants to adjust activities, personnel levels, and the sequence, duration and relationship of services to be performed in a manner that will comply with the accepted schedules.
- F. Revisions to Architect's schedules shall be prepared and submitted when requested by District, but no more frequently than once a month. District's acceptance of Architect's schedule will not create any duty of care or impose on District any responsibility for the sequence, schedule or progress of Services nor will it interfere with or relieve Architect from Architect's full responsibility therefor.

3.05 Program-Wide Coordination Efforts.

- A. Architect acknowledges and agrees that coordination and information sharing between the different design professionals and the various separate projects included within the Program will be critical to the overall success of each of the separate projects. Architect acknowledges and agrees that coordination of all projects will be a necessity in ensuring the effective relationships of all projects' members, tasks, and activities in terms of cooperation, integration and collaboration of their respective working environments.
- B. Architect agrees to utilize a coordination process with the District and all other design professionals involved in the Program to strengthen the collaboration, integration, communication and coordination among the design professionals and the separate projects within the Program, thereby improving the effectiveness and efficiency of the overall Program and preventing conflicts of information and reducing duplicate information exchange. A coordination process shall be

developed and managed throughout design and construction to ensure Program success and to harmonize the planned design and construction efforts.

3.06 Deliverables Required Under This Agreement - Generally. Each deliverable shall be reviewed with District representatives. Deficiencies in deliverables and modifications to conform with Project requirements and modifications to achieve acceptability of deliverables to District, shall be promptly performed, and the cost thereof included in the fee for Design Services.

3.07 Deliverables Required Under This Agreement - By Phase. Required Deliverables are listed in Appendix D.

3.08 Monthly Progress Report. Architect shall provide District with a written Monthly Progress Report, reporting on Architect's progress in performing Services, any recommendations, and any problems in performing the Services of which Architect becomes aware. If Architect is serving in that capacity on more than one project within the Program, the Monthly Progress Report may cover more than one project, provided it does so in separate sections. The Monthly Progress Report shall include, but is not limited to:

- A. A narrative of the Services performed (including a list of any Agreement deliverables) and identification of areas of concern, actions and approvals needed.
- B. The following schedule-related items:
 - 1. A schedule assessment and proposed ways to address any problems that arise.
 - 2. Monthly schedule status reports clearly identifying actual performance with respect to the current approved version of the schedule.
 - 3. The original summary schedule as updated to reflect current progress, updates and revisions, submitted in both CD (three sets) and 8 1/2" x 11" bound hard copy forms (three sets).
- C. Discussion and recommendations regarding the following:
 - 1. Value engineering (including value engineering design, equipment or labor, or audits or inventories).
 - 2. Constructability.
 - 3. Project scheduling.
 - 4. Scheduling of Architect's own Services and coordination with work of other consultants.
 - 5. Construction schedules.
 - 6. Coordination of Architect's Services with other projects within the overall Master Schedule.
 - 7. Any and all design changes affecting appearance, size, usage or cost of the Project.
- D. Architect shall make these written recommendations from the standpoint of a design professional observing the construction work and shall not by these recommendations assume construction management responsibilities.

3.09 State Communications. Assist with and coordinate all communications with CSCO, secure necessary approvals from DSA, and assist with and coordinate any necessary approvals with other Authorities Having Jurisdiction.

3.10 Other Services. Architects Services on each Project shall include the following work items:

- A. Diagram of Building Areas (SP 1-A).
- B. ADA compliance surveys and report.

- C. Design compliance with required CEQA Mitigation Measures.

ARTICLE 4 PROGRAMMING PHASE

- 4.01 Period of Service.** The Services called for in the Programming Phase will be completed and the required deliverables submitted within the stipulated periods of time indicated in the Master Schedule and Appendix C, "Milestone Schedule". Written authorization to proceed with the Programming Phase must be received by Architect prior to commencing services.
- 4.02 Detailed Requirements.** Consult with District to establish and document the following detailed requirements for the Project:
- A. Design objectives, limitations and criteria, functions, priorities, including sustainability;
 - B. Development of initial approximate gross facility areas and space requirement;
 - C. Space relation, requirements and restraints (including comparing requested space requirements to similar projects and space standards, diagramming space relationships by using massing diagrams, flow diagrams, stacking diagrams, bubble diagrams and other graphical methods);
 - D. Number of functional responsibilities and personnel;
 - E. Flexibility and expendability;
 - F. Special equipment and systems;
 - G. Site requirements and existing conditions, and utilities services;
 - H. Development of a preliminary budget for the work based on programming and scheduling studies;
 - I. Zoning and other applicable regulations;
 - J. Expandability;
 - K. Access, parking;
 - L. Construction feasibility and phasing;
 - M. Security criteria;
 - N. Communications relationships; and
 - O. Project schedule.
- 4.03 Space Schematics/Flow Diagrams.** Prepare diagrammatic studies and pertinent descriptive text for:
- A. Conversion of programmed requirements to net area requirements;
 - B. Internal functions;
 - C. Human, vehicular and material flow patterns;
 - D. General space allocations;
 - E. Analysis of operating functions;
 - F. Adjacency;
 - G. Special facilities and equipment; and
 - H. Flexibility and expansibility.
- 4.04 Existing Facility Surveys.** Architect shall research, assemble, review and supplement information for Projects involving alterations and additions to existing facilities or determining new space usage in conjunction with a new building program and including:

- A. Field measurements;
 - B. Review of existing design data;
 - C. Analysis of existing structural capabilities;
 - D. Analysis of existing mechanical capabilities;
 - E. Analysis of existing electrical capabilities; and
 - F. Review of existing drawings for inaccuracies, updating where necessary and the development of required measured drawings.
- 4.05 Estimate of Probable Total Construction Cost.** Prepare a preliminary Estimate of Probable Total Construction Cost (defined as the total anticipated cost of the construction contract to be let to a prime contractor) based upon the programming phase services performed, review initial budget estimates existing by applying unit costs and other standard cost data to space and facilities requirements. Report to District regarding continued accuracy of initial budget estimates.
- 4.06 [If applicable] Review of District Financing Application.** The Architect will further review the District's Application for funds through the [i.e. State Capital Outlay Bond, name other funding sources] Program ("Application").
- 4.07 [If applicable] Conformance with Financing Application.** Architect shall develop, in cooperation with the Project Team, a development and architectural facility program with a comprehensive list of interior and exterior space requirements which conforms to the Project description and scope of work detailed in the District's Application. The objectives of this phase of the Project are to:
- A. Develop a detailed facility program based upon and consistent with the District's Application and established [design and] construction budget.
 - B. Conduct an operational analysis of the program, and develop a planning concept to include analysis by the District, security and safety considerations, and other pertinent functional considerations.
 - C. Prepare preliminary floor plans and site plans to test the programmed areas.
 - D. Validate that the program being developed can be delivered within the budget established by the District and as outlined in the Application for design, construction and furnishing of the Project. The District suggests that Architect enlist the services of a professional cost estimator for this Phase of Services.
 - E. Note: To accomplish these objectives will require substantial interaction with the Project Team. The work will include regular, bi-weekly progress meetings with (College)'s Department representatives, (District) staff, and others during the programming effort.
- 4.08 [Optional]** Prepare preliminary estimates of design and construction costs and duration for the Project. Review the project budget and confirm in writing that the Project can be designed and constructed within the amount budgeted for the Project. Review the Project time table and confirm in writing that the Project can be designed and constructed within the Project time table.
- 4.09 [Optional]** Develop alternative conceptual plans and provide a general economic analysis of District's program requirements applicable to various design alternatives including, without limitation, structural, mechanical, electrical, plumbing, fire safety, electronics, and security systems.
- 4.10 [Optional] Specified Architect Staff.** As discussed during the procurement phase of this Agreement, Architect understands that for the key programming effort required in this ARTICLE 4, District requires the effort of Architect's senior staff including, without limitation, focused efforts by _____, and _____.

ARTICLE 5 SCHEMATIC DESIGN PHASE

5.01 Period of Service.

- A. After acceptance by District of the required deliverables in the Programming Phase, **and upon written authorization from District**, Architect shall proceed with the performance of the Services called for in the Schematic Design Phase.
- B. The Services called for in the Schematic Design Phase will be completed and the required deliverables submitted within the stipulated period of time indicated in the Master Schedule and (as applicable) Appendix C, Milestone Schedule. **Written authorization to proceed with the Schematic Design Phase must be received by Architect prior to commencing services.**

5.02 Consultation with District.

- A. Consult with District to clarify and define the requirements for the Services and review available data.
- B. Review District's conceptual program for scope, coordination requirements, criteria, budget and constructability.
- C. Identify, analyze and conform to the requirements of governmental and private Authorities Having Jurisdiction to approve the design of the Project and participate in consultations with such authorities.

5.03 Site Visit and Observations.

- A. Observe existing conditions through Site visits and otherwise, to determine scope of services and effects on design and construction. Obtain from District all available information on hazardous materials and advise District immediately of any other hazardous materials Architect has observed. (This paragraph does not impose on Architect any duty to locate hazardous materials.)
- B. Advise Project Manager as to the necessity of obtaining additional information related to the Site, necessary for purposes of design. Such advice and statement of necessity shall be in writing and explain fully the considerations involved. Such information might include, without limitation and by way of example only: description of property boundaries or as built information, rights of way, topographic, hydrographic, and utility surveys, soil mechanics, seismic and subsoil data, chemical, mechanical and other data logs of borings, etc.
- C. Review information generated pursuant to Paragraphs 3.02B.3, 5.03B, and 5.04 of this Appendix A, and advise Project Manager whether such data is adequate for purposes of design. Determine if additional data is necessary because of apparent errors, conflicts, incomplete information or otherwise, before Architect can proceed with design.

5.04 Recommendations on Required Additional Information.

- A. Advise District as to the necessity of District's providing or obtaining from others available or additional information pertinent to the Project including previous reports, as built conditions, information, and any other data relative to design or construction of the Project.
- B. Make recommendations on required additional information necessary to complete the design and complete the preliminary reports and schematic materials.
- C. Additional information required by Architect under Paragraph 5.04B shall be secured by Architect as directed in writing by Project Manager and compensated as Additional Services pursuant to ARTICLE 11.

5.05 Estimate of Probable Total Construction Cost.

- A. Prepare an Estimate of Probable Total Construction Cost and duration of the Project based on the schematic layouts, sketches and conceptual design criteria.
- B. **[Optional]** Upon completion of the District's separate, parallel Estimate of Probable Total Construction Cost, coordinate with District's estimating consultant to reconcile any differences between Architect's Estimate of Probable Total Construction Cost and District's. Architect understands and acknowledges that Architect is responsible for the final, reconciled estimate.
- C. Develop alternative conceptual plans and provide a general economic analysis of District's program requirements applicable to various design alternatives, including without limitation, structural, mechanical, electrical, plumbing, fire safety, electronics, and security systems. Include analyses of District's program requirements.

5.06 Schematic Layouts, Sketches and Conceptual Design Criteria.

- A. Prepare reports containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits.
- B. At the beginning of each design phase, identify all District decisions required to maintain the Master Schedule. Provide District with at least 15 working days notice of all decisions required to maintain the Master Schedule. Delays associated with time required for District to make decisions where adequate notice was not given will not result in Additional Services. Reports and exhibits shall incorporate District's program requirements and shall include structural concepts, Site utilization plans, floor plans, elevations, sections, study perspectives and other drawings necessary to describe the Project. Schematic reports shall be developed until an acceptable design concept has been approved by District. Architect shall participate in weekly progress meetings with representatives of District and shall coordinate with Project Manager formal design presentations at times indicated on the Project schedule.
- C. Prepare and submit to District for approval:
 - 1. Program/Construction Costs/Regulatory Requirements:
 - a. Review program and prepare preliminary evaluation of program and/or /program requirements agreed upon with the District.**[Optional: Use when this PSA does not include initial Programming Phase];**
 - b. Determine and obtain data on any District special building equipment and fixtures; distribute to design team;
 - c. Prepare an evaluation of District's budget for the Construction Cost in accordance with Paragraph 4.08 above;
 - d. Determine applicable zoning, codes, and other regulations applicable to the Architect's services;
 - e. Prepare or update zoning analysis. Follow up as necessary with Authorities Having Jurisdiction;
 - f. Prepare preliminary building code review; Follow up as necessary with applicable Authorities Having Jurisdiction;
 - g. Review project drawings for compliance with accessibility codes and regulations. Prepare the Accessibility Plan;
 - h. Draft a schedule for code reviews and submissions with the appropriate Authorities Having Jurisdiction and assist District in connection with filing documents required for the approval of Authorities Having Jurisdiction.
 - 2. Design/Architecture Requirements
 - a. Prepare Outline Specifications with Project Description, general and regulatory requirements, preliminary building code, preliminary accessibility analysis, structural

requirements, acoustical requirements, outline basic interior and exterior construction and materials, include preliminary elevator study, and include MEP outline specifications.

- b. Prepare a geometry plan for the building;
- c. Prepare all major plan elements of the building for all floors, with approximate accommodations for structure and MEP;
- d. Develop Typical project functional components (i.e. a typical office or classroom plan); Components should be graphically correct and coordinated with structural and MEP. Representative dimensions shown and representative partitions tagged; Show schematic furniture layouts to confirm spatial and program requirements of space types;
- e. Develop typical project components and core elements including elevators, stairs, and MEP risers, public toilet rooms. Components should be graphically correct and dimensional. Minor or atypical elements should be reflected in the plans and building sections. Confirm that all circulation elements conform with building and accessibility codes as well as with market requirements;
- f. Verify that all program requirements are incorporated into the plans including support areas such as staff break rooms / toilets, building storage areas, custodial closets and trash rooms and recycling;
- g. Develop Building elevations and note exterior materials; indicate the extent of their use and confirm alternatives with District. Develop Building sections including typical foundation details; indicate floor to floor dimensions, ceiling heights, major structural elements and major MEP transfer or horizontal distribution zones. Prepare Study models, perspective sketches, or digital modeling. Develop preliminary selections of major building systems with construction materials noted on the drawings or described in writing.
- h. Develop typical exterior wall sections, typical exterior details and typical exterior wall types with sufficient detail delineated in the drawings and adequately described in the Basis of Design Project Manual so that initial system pricing can be obtained;
- i. Prepare general description of atypical and high finish spaces such as lobbies, public corridors and amenities. Describe in the form of narratives and/or freehand sketches;
- j. Establish ceiling heights on a preliminary typical or representative reflected ceiling plan(s) as the basis to initiate project coordination. Layout a small representative portion to establish design intent;
- k. Establish preliminary ceiling heights for all typical and principal spaces; indicate on the floor plans and building sections;
- l. **Develop FFE design and schedules with District FF&E project manager.**

3. Structural Requirements

- a. Determine Structural system;
- b. Establish major grid lines, columns, shearwalls and other vertical elements. Determine dimensional requirements and size structural components;
- c. Address Major slab openings on typical floor(s), size major beams and spandrel beams;
- d. Address unique foundation conditions;
- e. Prepare Slab loading diagrams;

- f. Provide general descriptive information sufficient for Schematic pricing such as estimates of pounds of rebar per square foot, etc.;
 - g. Review pertinent portions of the Outline Specifications.
- 4. MEP / FP Requirements
 - a. Develop design criteria including indoor and outdoor conditions, ventilation, air circulation, minimum exhaust, sound levels, system diversities and building envelope thermal characteristics;
 - b. Prepare outline specifications including detailed system descriptions. For ductwork provide maximum air velocity criteria and duct insulation requirements;
 - c. Prepare preliminary fixture selections – general space requirements and types of plumbing fixtures, general criteria for light fixture types;
 - d. Prepare riser diagrams for all mechanical, fire protection and electrical systems and IT/AV low voltage systems, including information on number of risers and general sizes;
 - e. Develop preliminary layout of major mechanical components;
 - f. Develop space requirements including electrical rooms, MDF/IDF rooms, any mechanical rooms, major risers, chase requirements, etc. Include weights of equipment, major horizontal and vertical penetrations;
 - g. Determine MEP & FP distribution systems and other mechanical, fire protection and electrical systems that can impact structural, architectural plans and reflected ceiling plans, including but not limited to HVAC supply duct loop, sprinkler main routing, etc.;
 - h. Prepare energy code analysis;
 - i. Coordinate Utility requirements;
 - j. Determine IT/AV low voltage system requirements and design with District IT project manager and staff.
- 5. Civil / Site Design Requirements
 - a. Contact entities providing utility services to the project;
 - b. Develop Schematic site plan;
 - c. Prepare drawings and outline specifications showing technical site engineering and storm water detention;
 - d. Identify Site features with focus on hardscape;
 - e. Prepare Preliminary site grading;
 - f. Start preliminary coordination with MEP/FP consultant;
 - g. Verify site utilities and Prepare Underground utilities plan;
 - h. Verify that survey and existing conditions information provided by the Owner is sufficient and/or determine what additional information is required (i.e. additional or new surveys);
 - i. Address the design requirement for site access by building users and services, site landscaping, sidewalks and/or driveways and site utility areas;
 - j. Review site landscaping with Authorities Having Jurisdiction, Site features and grading should be approximately shown;
 - k. Determine the need for and if required prepare a request for site soil borings. Review with District, Structural Engineer and Civil Engineer.

- D. Reports and exhibits shall indicate clearly the considerations involved including, but not limited to applicable requirements of governmental authorities having jurisdiction or private licensing, patent, easements, or other legal restrictions. Reports and exhibits shall indicate any alternative solutions available to District and set forth Architect's findings and recommendations.
- E. Architect shall provide a narrative report by each design discipline (structural, mechanical, electrical, electronics, plumbing, fire safety and security) describing their proposed design philosophy with a description of, and the rationale for, the proposed systems, types of equipment, materials, finishes, site development and landscaping. The rationale shall include initial costs, lifecycle costs, life expectancy and maintenance considerations.

5.07 Lifecycle and Alternates Workshop

- A. Participate with Project Manager and any other consultants designated by Project Manager in the conduct of an approximate eight hour Lifecycle and Alternates Workshop. This session may be held during any appropriate stage of the design phase.
- B. Arrange for the participation of Sub-consultants in the Lifecycle and Alternates Workshop and provide with Sub-consultants lifecycle analysis on all major components and equipment and cost/benefit of alternate systems and materials.
- C. Prepare and submit to Project Manager for District's approval comparative cost studies of proposed major building systems for analysis in the Lifecycle and Alternates Workshop. Studies shall include first cost and lifecycle cost for all major components and equipment. Study shall estimate the yearly energy savings which shall be anticipated and shall list alternatives for systems and materials.

5.08 Design Schedule Report. A report on the anticipated schedule for Project design, including a detailed schedule of progression and submittals of drawings and specifications in the subsequent phases, verifying Architect's ability to conform to the Project schedule.

5.09 Attend Required Meetings. Architect shall attend [weekly] meetings with District staff and such other participants as District shall designate. Architect shall also attend budget, schedule, and value engineering meetings as requested and/or required by District staff. Architect shall further attend meetings with the community, representatives of District, interested parties, governmental entities, as necessary, and provide information and diagrams to fully describe the Project.

5.10 Interface with District Groups. Throughout all phases of program development and schematic design, Architect shall work with, coordinate with, interface with, exchange ideas and design materials with, and include throughout the decision-making process the District's staff and its consultants. Architect acknowledges and agrees that the District and its independent consultants shall have an active role in development of the Schematic Design and Design Development Phases. Architect shall seek input from District groups and prepare a report covering identifying responses and resolutions to the following: *[Following are examples; to be tailored to specific Project]*

- A. Is the design consistent with the District's mission, philosophy, and objectives?
- B. Does the design fully meet District Design Standards, operational and academic requirements (as detailed in the functional/operational program)? Is the design completely consistent with the architectural program?
- C. What are the site constraints (such as buildable areas for the Project, areas that need to be reserved for other functions, setbacks, wetlands, utilities that should not be moved)?
- D. How much land should be reserved for expansion of the facility?
- E. Are there any building materials that the District wants to use or avoid?
- F. Have District user groups prioritized design alternatives based on estimated costs?

ARTICLE 6 DESIGN DEVELOPMENT PHASE

6.01 Period of Service

- A. After acceptance by District of the required deliverables in the Schematic Design Phase, and upon written authorization from District, Architect shall proceed with the performance of the services called for in the Design Development Phase.
- B. Architect shall submit the deliverables required by the Design Development Phase including preliminary design documents and a revised estimate of Probable Total Construction Costs, within the stipulated period indicated in the Master Schedule and (as applicable) Appendix C, Milestone Schedule.

6.02 General Scope of Project and Final Design Criteria. After consultation with District and DSA or other Authority Having Jurisdiction on the basis of the accepted schematic, study and report documents, determine the general scope, extent and character of the Project and establish final design criteria. Participate in weekly progress meetings with District's personnel and subconsultants.

6.03 Design Development Documents. Prepare Design Development Documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project, together with renderings and models if required. These Preliminary Design documents shall include, but are not limited to:

- A. Drawings as described in 6.04 below.
- B. Outline specifications for each Technical Specification section, with Part 2 of each section completed, describing the size, character and quality of the entire Project in its essentials as to kinds and locations of materials; type of structural, mechanical and electrical systems.
- C. A tabulation of both gross and assignable floor areas in a comparison to the approved schematic program area requirements and to the initial program area requirements.
- D. Architect shall provide to Project Manager for District's approval a color and materials board, samples of textures and finishes of all materials proposed in the Services.

6.04 Design Development Phase Drawings. Provide preliminary drawings that indicate the scope of work included in the bid package with sufficient detail to enable preparation and review of an accurate cost estimate, including without limitation, the following descriptions of minimum requirements for a design development submittal, which shall be augmented as necessary to show design intent and to prepare an accurate estimate of construction cost in its essentials as to kinds and locations of materials; type of structural, mechanical and electrical systems. **[Following are the general disciplines applicable to a building structure; conform as applicable to Project]**

A. Architectural Preliminary Drawings

- 1. Floor plans that clearly show:
 - (a) Finish schedule
 - (b) Principal dimensions
 - (c) Wall types clearly identified
 - (d) Security zones and perimeters
 - (e) Room and door numbers, and a numbering plan for the entire facility
 - (f) Sufficient sections and details to enable a reasonable material takeoff
 - (g) Furniture and equipment design with Contractor-furnished and Owner-furnished equipment list incorporated in layout
- 2. Roof plans that clearly show:
 - (a) Slopes

- (b) Type of roofing
 - (c) Roof access and pathways
 - (d) Location of any mechanical equipment
 - (e) Sufficient information to determine primary and secondary means of drainage
3. Reflected ceiling plans that clearly show:
- (a) Ceiling material
 - (b) Access hatches
 - (c) Room numbers
 - (d) Partitions coordinated with the floor plans
 - (e) Mechanical and electrical features coordinated with mechanical and electrical system drawings
4. Elevations that clearly show:
- (a) Types of surface materials
 - (b) Dimensions from finish floor to tops of walls, eaves and roof lines
 - (c) All openings without dimensions but coordinated with door and window schedules
5. Sections that clearly show:
- (a) Any security considerations
 - (b) Firewall conditions at tops of walls
 - (c) All essential building parts and materials
6. All door, window, glazing and hardware schedules complete with sufficient detail to show the agreed-upon form and style
7. All items intended to be permanently affixed to the building
- B. Structural Preliminary Drawings
1. Floor framing and foundations plans that clearly show:
- (a) Principal dimensions
 - (b) All columns, shear walls, shafts and stairs
 - (c) Coordination of structure with architectural floor plans
 - (d) Sections cut and details to identify the proposed type of foundations
 - (e) Sufficient section and detail bubbles to show where sections and details can be found
 - (f) All major framing members with sizes
2. Roof framing plans that clearly show:
- (a) Principal dimensions
 - (b) All major framing members with sizes
 - (c) Sufficient sections and details to show design intent
 - (d) Coordination with architectural, mechanical and electrical floor plans
 - (e) Sufficient section and detail bubbles to show where sections and details can be found
3. Sections and details that clearly show:
- (a) Design intent
 - (b) All important connections
 - (c) Coordination with other structural plans
 - (d) Logical placement to allow easy location of sections and details
- C. Mechanical, Plumbing and Fire Protection Preliminary Drawings
1. Mechanical, Plumbing, and Fire Protection plans that clearly show:
- (a) Room numbers
 - (b) Locations of all major pieces of equipment
 - (c) Layout and sizing of all main ductwork and piping
 - (d) Symbol list coordinated with symbols on plans
 - (e) All site utility points-of-connection including invert elevations

- (f) Sufficient section and detail bubbles to show where sections and details can be found
- 2. Equipment and fixture schedules that clearly show:
 - (a) All fixtures identified
 - (b) All mechanical equipment identified and sized
- D. Electrical Preliminary Drawings
 - 1. Lighting and power plans that clearly show:
 - (a) Room numbers
 - (b) Single line diagrams of services and systems
 - (c) Symbol list coordinated with symbols on the plans
 - (d) Lighting plans coordinated with reflected ceiling plans
 - (e) Power, telephone and computer outlets shown and coordinated with equipment layouts in other disciplines
 - (f) Sufficient section and detail bubbles to show where sections and details can be found
 - 2. Equipment and fixture schedules, including lighting fixtures.
 - 3. IT/AV low voltage systems, Security, fire detection and alarm, intercom, public address (PA), closed-circuit TV (CCTV), distress call and similar electrical and electronic systems.
- E. Civil Preliminary Drawings:
 - 1. Site and grading plans that clearly show:
 - (a) Site cross sections
 - (b) Site contours and drainage
 - (c) Locations of all bench marks
 - (d) Precise locations of all major elements
 - (e) Roadways, driveways and parking areas
 - 2. Site utility plans that clearly show:
 - (a) All connections to off-Site utilities
 - (b) All utility points-of-connection including invert elevations
 - (c) All drainage systems and other utilities located and sized
 - (d) All permanent SWPPP mitigation measures located and sized (bio-swales, retention basins, etc.)
- F. Other Items
 - 1. Outline Technical Specifications describing the size, character and quality of the entire Project, including locations of materials; types of structural, mechanical, electrical and security systems.
 - 2. Engineering Calculations clearly presented for all disciplines, including structural, mechanical, and electrical loads, plus plumbing fixture units, and sufficiently complete for Construction Documents to proceed.
 - 3. Signage:
 - (a) Site Signage – Building identification and directional signage, site regulatory signage – To be coordinated with other site signage that may be installed as a part of other projects at the [College].
 - (b) Interior Signage - All signage needed for occupancy and the core functions of the building – Base building core signage (code required), base building life safety signage, supplemental facility signs (non-code required) and specialized signage.
 - 4. Alternates: The District will require bid alternates to be included in the Design Development Documents to help control the cost of the Project.

6.05 Additional Data or Services. Architect shall advise District in writing if additional data or services of the following types are necessary and, as Additional Services, assist in obtaining such data and services as directed in writing by Project Manager:

- A. Data prepared by or services provided by others, including, without limitation, borings, and subsurface explorations, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment;
- B. Appropriate professional interpretations of the foregoing;
- C. Environmental assessment and impact statements, Site assessments;
- D. Property, boundary, easement, right-of-way, topographic and utility surveys;
- E. Property descriptions;
- F. Zoning, deed and other land use restriction; and
- G. Other special data or consultations necessary or useful in completion of the Project.

6.06 Report on Additional Information Required. Advise in writing if any of the following are required:

- A. Governmental permits of any type.
- B. Reports of any type to governmental agencies.

6.07 Estimate of Probable Total Construction Cost. Based on the information contained in the Design Development documents, Architect shall prepare a detailed Estimate of Probable Total Construction Cost and duration of the Project, coordinated with the Master Schedule and (as applicable) Milestone Schedule.

- A. **[Optional]** Upon completion of the District's separate, parallel Estimate of Probable Total Construction Cost, coordinate with District's estimating consultant to reconcile any differences between Architect's Estimate of Probable Total Construction Cost and District's. Architect understands and acknowledges that Architect is responsible for the final, reconciled estimate.

6.08 Review with District/Value Engineering Session. Architect shall prepare for approval by District written design criteria for mechanical and electrical systems (for example, temperature, humidity, lighting levels and floor live load design shall be stated for general and special occupancy areas).

If the estimate of Probable Total Construction Costs exceed the Construction Budget, Architect and its major Subconsultants shall participate with District and District's subconsultants and estimators, in value engineering sessions as needed.

Architect will submit revised design development documents, addressing District review comments and items from value engineering sessions.

6.09 Lifecycle and Alternates Workshop

- A. Participate with Project Manager and any other consultants designated by Project Manager in (not to exceed) an eight hour Lifecycle and Alternates Workshop.
- B. Participate, and arrange for the participation of Subconsultants in the Lifecycle and Alternates Workshop. Subconsultants shall provide lifecycle costs analyses of all major components and equipment, and cost/benefit analyses of alternate systems and materials.
- C. Prepare and submit to Project Manager for District's approval comparative cost studies of proposed major building systems for analysis in the Lifecycle and Alternates Workshop. Studies shall include first cost and lifecycle cost for all major components and equipment. Study shall estimate the yearly energy savings which shall be anticipated and shall list alternatives for systems and materials.

- D. Following Lifecycle and Alternates Workshop, provide report to District. At a minimum, report should identify: (i) All areas where consensus was reached among parties (for this purpose parties are defined as Architect and District). (ii) All areas where material disagreements remained (including the basis for the disagreements and an analysis of each party's positions). (iii) All material decisions outstanding (and if applicable, the party responsible for making the final decision).
- 6.10 Attend Required Meetings.** Architect shall attend **[weekly]** meetings with the District as determined necessary to maintain design schedule. Architect may also attend meetings with the community, representatives of District, interested parties, governmental entities, as necessary, and provide information and diagrams to fully describe the Project.
- 6.11 Other Design Development Documents.** After written authorization to proceed with the Design Development Phase, Architect shall:
- A. Provide technical criteria, written descriptions and design data for District's use in filing applications for permits with or obtaining approvals of such governmental authorities as have jurisdiction to approve the design of the Project, and assist District in consultations with appropriate authorities.
 - B. Prepare a comprehensive update on Estimates of Probable Total Construction Costs and duration of the Project coordinated with Master Schedule (and, as applicable, Milestone Schedule), caused by changes in scope, extent or character of design requirements.
 - C. Prepare for review and approval by District, its legal counsel and other advisors, Supplementary Conditions to the construction contract, and (where appropriate) additional bidding requirements for inclusion in existing bid forms, invitations to bid and instructions to bidders, and assist in the preparation of other related documents.
 - D. Make full written disclosure to District, and obtain District's express written approval of:
 - 1. Any provisions in the final drawings and specifications that operate to shift design responsibilities from Architect to Contractor, through performance specifications or any other means;
 - 2. Any proposed innovative, unique, proprietary or sole source design features.
- 6.12 Work Phasing Recommendations.** Prepare recommendations for phasing of the construction work to minimize disruptions and interferences with District's operations and any concurrently proceeding construction activities. Meet and discuss phasing recommendations with District and Project Manager. This phasing may be incorporated into Construction Contract documents. Complete phasing recommendations as part of the Construction Documents Phase services.

ARTICLE 7 CONSTRUCTION DOCUMENT PHASE

- 7.01 Period of Service.** After acceptance by District of the Design Development Phase documents and revised estimate of Probable Total Construction Costs, and upon written authorization from District, Architect shall proceed with the performance of the services called for in the Construction Document Phase; and shall deliver required deliverables under this phase, within the stipulated period indicated in the Master Schedule and Appendix C, Milestone Schedule.

7.02 Final Drawings and Specifications

- A. Construction Documents shall be prepared in accordance with District's standards. Final technical specifications shall be prepared in conformance with the division format of the Construction Specification Institute. Architect shall cooperate with District in coordinating the Drawings and technical specifications (CSI Divisions 02 and greater) with District's Divisions 00 Procurement and Contracting Requirements and 01 General Requirements and in jointly revising District's General Requirements items. Architect shall provide whatever Division 01 General Requirement specifications necessary for the Project and not supplied by District.

- B. Submittal to DSA: All Construction Documents shall be brought to a ninety-five percent level of completion for DSA submittal. District may conduct a peer review of the completed construction documents, including submittal of a list of revisions required to complete the documents. Architect shall complete drawings and specifications following DSA submittal and review, including completion of all Subconsultant services, fully coordinate drawings and specifications, and perform a quality control review. The same Architectural and Subconsultant team (and team personnel) preparing the DSA submittal shall complete the drawings and specifications.
- 7.03 Compliance with Codes, Regulations and Requirements.** Architect shall comply with the standard of care of a specialist in California community college design when preparing Drawings and Specifications to comply with applicable building codes, ordinances, statutes, laws, standards, governmental regulations and private restrictions, applicable to the Services, including, without limitation, environmental, energy conservation, and disabled access requirements, regulations and standards of the Fire Marshal having jurisdiction over the Project.
- 7.04 Compliance with State Standards.** Without limiting Paragraph 7.03 above, all plans, specifications, structural design calculations, site data, and cost estimates required by State law, including without limitation the California Education Code and Code of Regulations, shall comply with State standards. Architect shall prepare and submit the application for approval of the plans and specifications by DSA. A “check set” shall be submitted by Architect to DSA, and any changes or corrections required by the DSA shall be made by Architect. Any other requirements of DSA or any other Authority Having Jurisdiction shall be complied with. Deliver to District two (2) complete sets of final DSA approved plans and specifications. Architect shall designate a contact person for the duration of the State approval process.
- 7.05 Drawings and Specifications.** The Drawings and Specifications must clearly identify and describe all necessary quality levels and quality control procedures such as inspections, tests, submittals or other measures that the Contractor must perform. Each specification section must include the requirements for the tests, controls, performances and certifications needed to verify the specified quality level of that section. Each work-related specification section must also dedicate a subsection to identify and list required Contractor submittals along with testing and inspection requirements.
- 7.06 Revised Estimate of Probable Total Construction Cost.** Based on the information contained in the Drawings and Specifications, Architect shall submit, once at 50% completion and again at 90% completion of Construction Document Design Phase, a revised and more detailed Estimate of Probable Total Construction Cost and duration of the Project, coordinated with the Master Schedule. In the event that the District elects to increase the construction budget to align with this revised Estimate of Probable Total Construction Cost, rather than requiring the Architect to redesign within the budget, Architect’s fee shall not be increased based on the District’s revised budget.
- A. **[Optional]** Upon completion of the District’s separate, parallel Estimate of Probable Total Construction Cost, coordinate with District’s estimating consultant to reconcile any differences between Architect’s Estimate of Probable Total Construction Cost and District’s. Architect understands and acknowledges that Architect is responsible for the final, reconciled estimate.
- 7.07 Report.** Provide a written report to District that the final design, as expressed in the final plans and specifications, meets the standard of care of a specialist in California community college design including, without limitation, the following attributes:
- A. Its constructability, workability and biddability;
- B. The finished construction meeting the required levels of structural integrity, watertightness, durability, maintainability, and security, if faithfully carried out;

- C. The completed Project conforming to the requirements of all applicable laws, statutes, regulations and ordinances; and
- D. Does not call for the use of hazardous materials.

7.08 Review of the Final Design by District. Participate and cooperate fully in a review of the Final Design by District, and any consultants engaged by District, to assess the constructability of the final design. Respond to District comments and incorporate comments as necessary.

ARTICLE 8 BIDDING PHASE

8.01 Bidding. After written authorization to proceed with the Bidding Phase, Architect shall:

- A. Attend Pre-Bid Conferences and Site Visits.
- B. Assist District in advertising for and obtaining bids for each separate prime contract for construction, materials, equipment and evaluating bids;
- C. Consult with and advise District as to the acceptability of subcontractors, suppliers and other persons and organizations proposed by the bidders for those portions of the work as to which such acceptability is required by the bidding documents.
- D. Consult with District concerning, and determine the acceptability of, substitute materials and equipment proposed by bidders.
- E. Answer bidder questions and/or issue written addenda as appropriate to interpret, clarify or expand the bidding documents, including allowable substitutions of materials and equipment. Where appropriate, obtain DSA or other Authority Having Jurisdiction approval.
- F. If requested by District, attend the bid opening and assist District in evaluating bids or proposals and in assembling and awarding contracts for construction, materials, equipment and services.
- G. Prepare a conformed set of Drawings and Specifications, reflecting the changes made and approved by the District during the Bidding Phase.

8.02 Where Bids Exceed Budget. If the lowest responsible, responsive bid received from a contractor exceeds the latest approved Estimate of Probable Total Construction Costs, District may, at its discretion:

- A. Award the contract to the lowest responsible, responsive bidder, and give written approval of an increase in District's budget. In this event, Architect's fee shall not be increased based on the District's revised budget.
- B. Reject all bids and rebid the contract.
- C. If the bid amount is more than 10% greater than the Architect's latest accepted Estimate of Probable Total Construction Cost rendered during the Construction Documents Phase, District may require Architect to revise the scope of work to be performed by the Contractor or its quality, or both, so as to reduce the Project Construction Cost for the work to be performed by the Contractor, while still meeting District's program objectives. Architect shall at its expense, if so directed by District, modify the Construction Documents in order to reduce the Project Construction Costs for the work to be performed by the Contractor within the Project budget for that Contractor's work.
- D. Abandon the Project and terminate this Agreement.

ARTICLE 9 CONSTRUCTION CONTRACT ADMINISTRATION PHASE

9.01 Period of Service. The Construction Contract Administration Phase will commence with the execution of the prime contract to be executed for the work of the Project, and will terminate upon written recommendation by Architect for final payment on the prime contract completion.

9.02 General Administration of Construction Contract.

- A. Architect shall consult with and advise District and act as District's representative as provided in Document 00 71 00 General Conditions and Division 01 Specifications (herein called the "**General Conditions**"). Architect shall review the General Conditions prior to award of the Construction Agreement, and shall perform all duties which the General Conditions provide will be performed by the "Architect" or "Architect/Engineer".
- B. Architect will have authority to act on behalf of District to the extent provided in the General Conditions of the Construction Contract, provided, however, that District may, in its sole discretion, issue instructions directly to Contractor if notice of such instructions is given to Architect as soon as practicable thereafter.
- C. Architect will work with District, Project Manager, and any other Project Inspectors, testing agencies, and governmental agencies as set forth in the General Conditions and this Agreement. Architect consents to District's retaining of a construction manager who may perform some or all of the functions assigned to Project Manager in this Agreement.
- D. For purposes of this Appendix A, words and phrases having a defined meaning under the General Conditions shall have that defined meaning in this Appendix A, including, without limitation, the terms "**Site**", "**defective**", "**Contract Documents**", "**Shop Drawings**", "**Samples**", "**Inspector**" and "**Design-Build Contractor**".
- E. Architect and Resident Project Representative (if required) shall attend the Preconstruction Conference.
- F. Architect shall, after approval of the plans and specifications by the DSA, and as soon as the construction contract is let, but before construction is started, provide notice to the DSA as required by the California Code of Regulations.

9.03 Attend Required Meetings. Architect shall attend and prepare meeting minutes of weekly OAC meetings.

9.04 Visits to Site and Observation of Construction.

- A. Architect shall make visits to the Site at intervals appropriate to the various stages of construction as Architect deems necessary in order to observe, as an experienced and qualified design professional, and sufficient to prepare the Verified Reports and any other reports or certifications required by the California Education Code and Code of Regulations, or by any other authority, on the progress and quality of the various aspects of Contractor's work. Architect shall provide District with copies of all records and reports of Site visits within forty-eight (48) hours of the Site visit.
- B. Architect shall endeavor to protect the District against defects and deficiencies in the execution and performance of the work of the Project.
- C. Architect shall advise District in writing of any observations of defective work, work not in conformance with Drawings and Specifications, and lack of progress of work.
- D. Architect shall establish and maintain to the satisfaction of District, a computer database compatible with the database maintained by District. The Architect's database shall maintain complete and accurate records regarding defective work, work not in conformance with Drawings and Specifications, and lack of progress of work, and shall cross reference such work to the Drawings and Specification sections violated. Architect shall make such database available to District at all reasonable times and turn over the database to District upon completion or termination of this Agreement.
- E. Architect shall not, during visits or as a result of observations of Contractor's work in progress, supervise, direct or have control over Contractor's work.

- 9.05 Resident Project Representative.** Unless agreed specifically otherwise, Architect shall not provide the services of a Resident Project Representative at the Site to assist Architect to provide continuous observation of the Project.
- 9.06 Defective or Nonconforming Work.** Architect shall make written recommendations to Project Manager to disapprove or reject Contractor's work, or to accept Contractor's work with a reduction in Contract Cost, while it is in progress, if Architect believes such work is defective or will not produce a completed Project that conforms to the Contract Documents or that such work will prejudice the integrity of the design concept of the Project as reflected in the Contract Documents.
- 9.07 Interpretations, Clarifications and Corrections.**
- A. Architect shall issue necessary interpretations, clarifications and Request for Information (RFI)-Replies regarding the Contract Documents and in connection therewith assist Project Manager with supplemental instructions and change orders as required, with reasonable promptness so as to cause no delay to Contractor or the Project. In no case shall the review period associated with an RFI exceed five (5) working days from the receipt by the Architect. Architect's response to each RFI shall be a substantive and acceptable response. This five (5)-working day time period shall not include time when a submittal is within the District's control or if the submittal is being reviewed by DSA. In no way does this provision reduce the Architect's liability if it fails to prepare acceptable documents.
 - B. Architect shall, at its own expense, make all revisions and changes to the Drawings and Specifications as directed by District to correct errors, omissions or conflicts.
 - C. On change orders, prepare the scope of work, justifications and estimate of the cost where necessary.
- 9.08 Verified Reports.** Architect shall make the "verified reports" required by the California Education Code and Code of Regulations, according to the form and schedule required by those codes and DSA.
- 9.09 Review of Submittals and Requests for Information.**
- A. Architect shall review, approve or take other appropriate action as set forth in the General Conditions in respect of Shop Drawings, Samples and other data which Contractor is required to submit under Specification 01 13 00 Submittals (collectively referred to herein as "**Submittals**"), and review and reply to RFI's, for conformance with the design concept of the Project and the intent of and compliance with the Contract Documents, with reasonable promptness so as to cause no delay to Contractor or the Project. In no event shall Architect respond to RFI's longer than five working days after their receipt and other submittals any longer than ten working days after their receipt.
 - B. Reviews, approvals and other actions taken shall not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto, unless same has been expressly specified by Architect.
 - C. Architect shall, for the purpose of performing its review obligations herein, employ and engage personnel who are sufficiently qualified to conduct meaningful review of the Shop Drawings, submittals and requests for clarification.
 - D. Architect shall maintain to the satisfaction of District a computer based system to record, control and manage the review of Submittals and RFI's, which shows the interrelationships among and between such documents and requests for changes or claims, Bulletins and/or potential and/or approved change orders, and which can be used for coordination of submittal reviews with the Project scheduling requirements, and shall make such system available to District at all reasonable times. If District utilizes a PMS, as described in Paragraph 2.03C, to manage and record Project documents. Architect shall use this system in lieu of a separate computer based system.

- E. Architect shall provide to Project Manager for District approval two copies of a color schedule, samples of textures and finishes of all materials in the work at the Project.

9.10 Communications with Contractor.

- A. Any communications between Architect and Contractor regarding any form of change to the construction contract's Contract Documents (including, without limitation, changes in price), and any other party acting on behalf of either, shall be in writing, or if not made in writing, memorialized in writing, and copies of same shall be sent immediately to Project Manager. All such communications shall be delivered to Project Manager for delivery to the Contractor, except for actions on submittals, which shall be sent directly to Contractor with a copy to the District's Project Manager. Architect shall not communicate directly with the Contractor. Conversely, Architect shall receive all written communications from the Contractor through the Project Manager. The District, in its sole discretion, reserves the right to change this requirement, relax this requirement, or revise this requirement.
- B. As required in the General Conditions, Architect shall review all written communications from Contractor, recommend actions to be taken by District, and reply in writing to Project Manager regarding the following:
 - 1. Applications for payment.
 - 2. Requests for changes in contract costs or duration of project.
 - 3. Disputes with respect to technical aspects of contract documents.
 - 4. Requests for interpretation and clarification of contract documents.

9.11 Substitutions.

- A. Architect shall evaluate and determine the acceptability of a maximum of two (2) substitute materials and equipment proposed by Contractor. Should the number of substitutions submitted by the Contractor exceed two (2), Architect shall inform the District, who will at their discretion, authorize the Architect to proceed on Additional Services basis.
- B. Architect shall review quality control submittals and requests for substitution from Construction Contractor in a timely manner and, for the purpose of performing its review obligations herein, shall employ and engage personnel who are sufficiently qualified to conduct meaningful review and make knowledgeable comparisons of proposed substitutions.

9.12 Inspections and Tests.

- A. Architect shall request Project Manager to require special inspection or testing of the work whenever necessary to Architect's performance of its duties hereunder.
- B. Architect shall receive and review all certificates of inspections, testings and approvals required by laws, rules, regulations, ordinances, codes, orders or the Contract Documents (but only to determine generally that their content complies with the requirements of, and the results certified indicate compliance with, the Contract Documents).
- C. Architect shall observe work to determine if work or portions of work are substantially complete, and for development of punch lists, and final completion.
- D. Architect shall attend all weekly construction contract progress meetings.

9.13 Disputes Between District and Contractor. Architect shall act as initial interpreter of the requirements of technical aspects of the Contract Documents as required by the General Conditions.

9.14 Applications for Payment.

- A. Based on Architect's on-Site observations as an experienced and qualified design professional, on information provided by the Project Inspector and on review of applications for payment and the accompanying data and schedules, Architect shall assist Project Manager in its determination of amounts owing to Contractor and recommend in writing payments to Contractor in such amounts.
- B. Recommendations of payment by Architect will constitute a representation to District that:
 - 1. The work has progressed to the point indicated;
 - 2. To the best of Architect's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents (subject to evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation).
- C. In the case of unit price work, Architect's recommendations of payment will include its determinations of quantities and classifications of such work, along with data provided by District and other consultants (subject to any subsequent adjustments allowed by the Contract Documents).
- D. By recommending any payment Architect will not thereby be deemed to have represented that exhaustive, continuous or detailed reviews or examinations have been made by Architect to check the quality or quantity of Contractor work as it is furnished and performed, beyond the responsibilities specifically assigned to Architect in this Agreement and the General Conditions. The issuance of a Certificate for Payment shall not be a representation that: (1) the Work of the Contractor is free of minor and customary defects; (2) that the Architect has made exhaustive or continuous on-site inspections to check the quality or the quantity of the Work; (3) that the Architect has reviewed construction means, methods, techniques, sequences or procedures; (4) that the Architect has reviewed copies of requisitions received from subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment or; (5) that the Architect has ascertained how or for what purpose the contractor has used money previously paid to the Contractor.

9.15 Contractor's Completion Documents.

- A. Architect shall receive and review all maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor in accordance with the Contract Documents (but such review will only be to determine that their content complies with the requirements of, and in the case of certificates of inspections, tests and approvals the results certified indicate compliance with, the Contract Documents); and shall transmit them to District with written comments and recommendation on their conformance with Contract requirements.
- B. Architect shall employ and engage personnel who are sufficiently qualified to conduct meaningful review of maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, and tests.

9.16 Final Observations. Architect shall conduct observations to determine if the work or portions of the work is substantially complete and a final observation to determine if the completed work is acceptable, and will recommend, in writing, whether final payment shall be made to Contractor and will give written notice to the Project Manager that the work either is or is not acceptable subject to any conditions therein expressed.

9.17 Post-occupancy Review. Architect and sub-consultants shall participate in one (1) "post occupancy review".

- A. Architect and sub-consultants will participate in a comprehensive walk through of the facility with the District, Commissioning Agent and Construction Manager no later than one month prior to the end of the warranty period.

- B. Architect will prepare a report based on site observations and discussion with the District of systems and materials that are not serving their intended use, show excessive wear and tear, or are not performing as designed. A draft of this report will be provided to the District no more than one week following the walk through.

9.18 Time of Construction Phase.

- A. Any prolonged construction phase services past the construction completion date defined in the Construction Contract, due in whole or in part to Architect's failure to perform its obligations under this Agreement, shall be included in Design Service.
- B. Prolonged construction phase services not due in whole or in part to any failure of Architect to perform under this Agreement, and which exceed by less than 30 days the actual construction duration defined in the Construction Contract, or which exceed by less than 20% of the expected construction duration in Appendix C, whichever is longer, shall be included in Design Service.

ARTICLE 10 OPERATION/PROJECT CLOSE-OUT PHASE

10.01 Period of Service. The Operation/Project Close-Out Phase will commence with the issuance of the certificate of Substantial Completion, and will terminate one year thereafter.

10.02 Operation/Project Close-Out. During the Operation/Project Close-Out Phase, Architect shall, when requested by District:

- A. Provide assistance in connection with the refining, adjusting and correcting of any equipment or systems.
- B. Assist in start-up, testing and placing in operation special equipment and systems. (For all such equipment and systems, Architect shall have specified start-up and testing procedures in the contract documents.)
- C. Cooperate with District's commissioning agent, if any, for specialized equipment and systems.
- D. Provide assistance in connection with completion of punch list work, including without limitation, preparing the initial comprehensive punch list and conducting no more than two follow up Site visits (with follow up punch listing if necessary) in addition to other responsibilities under this Agreement.
- E. Assist District in coordination of training District's staff to operate and maintain equipment and systems as necessary.
- F. Assist District in developing systems and procedures for control of the operation and maintenance of and record keeping for the Project.
- G. Together with District, visit the Project to observe any apparent defects in the completed construction, assist District in consultations and discussions with Contractor concerning correction of such deficiencies, and make recommendations as to replacement, correction, or diminished value of defective work.
- H. Together with District and Project Manager, coordinate, prepare and submit all final required deliverables under Title 24 and anything else required by DSA for its final Project approval.
- I. Prepare electronic record sets and sets of reproducible record prints or Drawings showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor to Architect.
- J. Prepare electronic record sets and set of record prints showing those changes made during the construction process, based on the marked-up Technical Specifications and other data furnished by Contractor to Architect. Electronic data shall conform to District requirements for compatibility with District equipment and software.
- K. Assist District's transition and occupancy teams as requested by District.

- L. Architect shall assist the District in the resolution of post-construction claims.

ARTICLE 11 PAYMENTS TO ARCHITECT

11.01 Payments to Architect shall be made according to Appendix B, "Payments to Architect".

ARTICLE 12 ADDITIONAL SERVICES

12.01 Performance. Services required to be performed by Architect upon request by District, which are described hereinafter as Additional Services, must be authorized by District in writing prior to Architect performing Additional Services.

12.02 Compensation for Additional Services. Architect shall be compensated for Additional Services as set forth in Appendix B unless the parties agree on lump sum compensation for particular work activities.

12.03 Services. The following services shall be considered Additional Services:

- A. Making revisions in reports, drawings, or other documents, if:
1. Such revisions are not necessary because of a deficiency in Architect's Services, and
 2. Such revisions are inconsistent with the District's prior written approvals or instructions, or are required by the enactment or revision of codes, laws or regulations after such documents were prepared, or are due to other causes not solely within the control of Architect.
- Notwithstanding the foregoing, Architect shall not be entitled to Additional Services compensation for revisions to any item (including, without limitation, Design Development documents and Construction Documents) required to bring the Project or portions thereof into budget due to changes in market conditions (general or specific) that Architect knew about, or should have known about had it used reasonable care under the circumstances.
- B. Changes in scope, such as revisions of approved reports or design documents. Changes in schedule can be a change in scope only if Architect has fully performed its scheduling and coordination responsibilities required and the changes in schedule are in addition to these responsibilities.
- C. Required out-of town travel beyond limits specified in Appendix B.
- D. Assistance in connection with bid protests and rebidding when such assistance is required by matters unrelated to Architect's deficient performance.
- E. Property surveys or field surveys for design purposes, engineering surveys, and staking, to the extent not required by other provisions of this Agreement.
- F. Preparing to serve or serving on behalf of District as an expert witness in connection with any arbitration, administrative or other proceeding or legal proceeding. Preparing to serve or serving as a percipient witness shall not be considered an Additional Service.
- G. Preparing applications and supporting documents for governmental grants and permits. However, participating in consultations and evaluation of the effect of associated requirements on Project design requirements shall not be considered an Additional Service.
- H. Services to verify the accuracy of geotechnical information.
- I. Assisting in actual claims resolution efforts when such assistance is required by matters unrelated to Architect's performance.

- J. Providing any other services requested by District that are not otherwise included in this Agreement and are not customarily furnished in accordance with generally accepted architectural, engineering, and other professional practice.
 - K. Providing additional insurance coverage requested by District beyond that specified in the Agreement, except that no markup will be allowed. Architect shall promptly comply with such request.
 - L. Substitutions beyond the maximum of two (2) described in Paragraph 9.11A.
- 12.04** All work or services required as a result of any failure by Architect to perform its obligations under this Agreement shall be performed by Architect at no additional cost as part of Design Services and shall not be deemed Additional Services.

ARTICLE 13 PERIODS OF SERVICE

- 13.01 Milestones.** Certain Project Milestones are contained in the Appendix C Milestone Schedule. Specific milestones for completion of Phases and tasks within each phase will be included in the Master Schedule to be provided by District.
- 13.02 Commencement of Services.** Architect shall not commence Services on any succeeding phase of Services until completion of services on existing and prior phases of Services and Project Manager has provided Architect with written notice to commence the succeeding phase of Service, unless Project Manager, in its sole discretion, authorizes Architect to do so.

ARTICLE 14 DISTRICT'S RESPONSIBILITIES

- 14.01 Project Manager.** District shall designate a Project Manager, who is authorized to act on District's behalf with respect to this Agreement. District or such authorized representative shall render required decisions promptly to avoid unreasonable delay in the progress of Architect's services. District may delegate all or some of Project Manager's role and function to a construction manager. District may change the individual acting as Project Manager and/or the individual or entity acting as a separate contractor or construction manager at any time with notice to Architect.
- 14.02 Design Requirements.** District shall provide criteria and information regarding design objectives and constraints, space, capacity and performance requirements, and budgetary limitations, when known.
- 14.03 Property Information.** District shall provide geotechnical information, environmental impact reports, and relevant information concerning property boundaries, easements, rights of way, topographic and utility surveys, property descriptions, zoning, boundary and other land use restrictions, as needed and necessary.
- 14.04 Documents.** District shall make copies of available documents and drawings of existing conditions available to Architect. Architect may inspect all District's surveys and records of construction. Verification of visible on-Site facilities is the responsibility of Architect.
- 14.05 Surveys.** District shall provide engineering surveys to establish reference points for construction.
- 14.06 Hazardous Materials.** District shall provide hazardous materials surveys and perform remediation measures to eliminate hazardous materials from Project Site.
- 14.07 Permits and Approvals.** Architect shall assist District in its securing of all required approvals and permits from governmental authorities having jurisdiction over the Project, unless otherwise specified in this Agreement (for example, Architect's duty to secure all required design approvals from DSA).

14.08 Site Access. District shall provide Architect reasonable access to the Site provided Architect complies with all security and safety requirements, and coordination requirements.

14.09 Project Inspector. District shall supply the Project Inspector(s) required by the Education Code and Title 24.

END OF APPENDIX A

APPENDIX B

PAYMENTS TO ARCHITECT

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

ARTICLE 1 MAXIMUM PAYMENT

- 1.01** District shall pay Architect an agreed-upon sum for Design Project Services.
- 1.02** Excluding Additional Services only, the Maximum Payment to Architect for Services performed under this Agreement shall not exceed progress on the Project Services described in Appendix A, Services to be Performed by Architect, the stated budget for the Services, and the amounts shown under Paragraph 2.02 below.
- 1.03** For purposes of this Appendix B, all work performed by Architect prior to this Agreement shall be deemed performed under this Agreement and considered in calculating Architect’s payments due under this Agreement. The Maximum Payment to Architect described above shall apply in all circumstances except Additional Services.
- 1.04** Architect’s fee for the Project shall not exceed [Insert Amount in Words] Dollars (“**Maximum Payment Amount**”), payable in phases as provided in paragraph 2.01 below
- 1.05** This measure shall constitute Architect’s full compensation for its Services for all Design Services included in Appendix A, and all expenses required by the agreement, but does not include payment for any Additional Services. Overhead shall be included in Design Services and allowable markup for Additional Services. Overhead shall include but is not limited to.
- A. General administration and preparation of cost proposals, schedule analysis, change orders and other supporting documentation as necessary;
 - B. Computer services;
 - C. Reproduction services for in-house use;
 - D. Salaries of home office principals, executives, administration/accounting support;
 - E. Home office expenses such as rent, utilities, janitorial services, etc.;
 - F. Insurance premiums;
 - G. Expenses for travel as defined in Paragraph 4.03 below.
- 1.06** If District changes the scope of the Project referenced in Appendix A Paragraph 1.01, either increasing or decreasing the scope of Architect’s Services, then the parties shall calculate an amended lump sum fee based upon the revised Project value. If District changes Project scope after Architect has commenced Services on the Project, then the parties shall agree upon an equitable adjustment limited by the original fee for the Project, Architect’s incurred costs and progress under Paragraph 2.02 below, and the revised scope of Services and revised fee remaining. Architect’s fee will not, however, include a change in the Architect’s fee for (a) increased equipment costs or (b) if changes are caused or contributed to by Architect’s errors or omissions.
- 1.07** Maximum Payment Amount includes all design services reimbursable expenses.

ARTICLE 2 METHODS OF PAYMENT FOR SERVICES AND EXPENSES OF ARCHITECT

2.01 For Design Services on the Project: District shall pay Architect for design services rendered under Appendix A:

- A. A sum not exceeding the Maximum Payment Amount for the Project identified in Article 1 above; and
- B. For the phases listed in Paragraph 2.02 below, a sum not exceeding the amount so allocated to that phase. Within each phase listed in Paragraph 2.02 below, Architect shall be paid according to its percentage completion of each phase.

2.02 Maximum Payment to Architect by Phase

<u>PHASE</u>	<u>Percentage</u>	<u>AMOUNT</u>
Programming Phase	5%	
Schematic Design Phase	15%	
Design Development Phase	20%	
Construction Document Phase		
Submittal to DSA	15%	
Approval by DSA	15%	
Bidding Phase	5%	
Construction Phase	20%	
Operation/Project Close-Out Phase	5%	
TOTAL DESIGN SERVICES	100%	

2.03 Additional Services District shall pay Architect for Additional Services rendered under Appendix A as follows:

- A. General. For Additional Services of Architect's principals and professional and technical staff, and that of identified Subconsultant principals and professional staff, engaged directly on the Project and rendered pursuant to Appendix A ARTICLE 12, on the basis of a lump sum negotiated between the parties, or, at District's option, at the Billing Rates (as defined below).
- B. Subconsultants. For Additional Services of Subconsultants employed by Architect to render Additional Services pursuant to Appendix A ARTICLE 12, either as part of the lump sum negotiated in accordance with paragraph 2.03.A. above, or the amount billed to Architect, which will be based on Subconsultant's Billing Rates to the extent applicable, times a factor of 1.10.
- C. Hourly Basis. For Additional Services on an hourly basis, Architect agrees that all Subconsultant billing will be limited to a not-to-exceed amount upon prior written approval of the District.
- D. Reimbursable Expenses. Except as set forth in Paragraphs 2.03.E. and 2.03.F. below, District shall pay Architect the actual cost of all Reimbursable Expenses incurred only in connection with Additional Services.
- E. Other Expenses. For expenses not required by the Agreement, the District shall reimburse the following expenses at a rate of 1.10 times cost, whether incurred on Design Services or Additional Services: any plotting of Drawings, printing of Specifications and Bidding Documents in addition to the original set plus one plot; and fees paid to government agencies on behalf of the District.
- F. Photocopying and Postage. On Design Services, District shall pay Architect 1.10 times cost for expenses for plotting, photocopying, and postage.

ARTICLE 3 TIMES OF PAYMENTS

- 3.01** Architect shall be paid according to actual percentage of completion of designated phases of the Design Services as specified in Paragraph 2.02 above.
- 3.02** Architect shall submit monthly statements for Design and Additional Services rendered and for Reimbursable Expenses incurred. The statements will be based on Architect's estimate of the proportion of completion of each phase of service set forth above, utilizing the design schedule organized by task. The District shall promptly review Architect's monthly statement, and provided it is acceptable, shall promptly make payment thereon.

ARTICLE 4 DEFINITIONS

- 4.01** **"Architect's Billing Rates"** apply to all Architect and (unless otherwise agreed by District) Subconsultants' professional and technical personnel (architects, engineers and drafters) engaged directly on the Project. Architect shall not bill for or receive compensation for other business or administrative personnel or secretarial personnel. For purposes of this Agreement, Architect and Subconsultants' Billing Rates included in its Proposal are attached as Exhibit 1 to this Appendix B.
- 4.02** **"Reimbursable Expenses"** mean actual expenses incurred by Architect or Subconsultants in connection with Additional Services, such as expenses for: transportation and subsistence incidental thereto; providing and maintaining field office facilities including firm furnishings and utilities; toll telephone calls and telegrams, mail and overnight delivery services; reproduction of reports, Drawings, Specifications, Bidding Documents and similar Project-related items; and if authorized in advance by the District, overtime work requiring higher than regular rates.
- A. Reimbursable Expenses shall not include Local Travel.
- B. Travel expense beyond Local Travel for travel by automobile shall be reimbursed at the current rate set by the U.S. Government, and for travel by other means shall be the actual expense incurred by Architect.
- 4.03** **"Local Travel"** means travel between Architect's offices and San Mateo County, and travel to any location within a fifty-mile radius of either Architect's office or San Mateo County.

END OF APPENDIX B

EXHIBIT 1 TO APPENDIX B

[Insert Architect/Subconsultant's Schedule of Billing Rates]

END OF EXHIBIT 1 TO APPENDIX B

SAMPLE

APPENDIX C

MILESTONE SCHEDULE

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

The following table is a list of activities to be performed by Architect, District and other parties with regard to Services under this Agreement, for which specific completion dates for milestones are set:

No.	ACTIVITY	MILESTONE DATE
1.	COMMENCEMENT	
2.	PROGRAMMING PHASE	
3.	SCHEMATIC DESIGN PHASE	
4.	DESIGN DEVELOPMENT PHASE	
5.	CONSTRUCTION DOCUMENT PHASE	
5.a	DSA SUBMITTAL (if applicable)	
5.b	DSA APPROVAL (if applicable)	
6.	BIDDING PHASE	
7.	CONSTRUCTION PHASE	
8.	OPERATION/PROJECT CLOSE-OUT PHASE	

END OF APPENDIX C

APPENDIX D

DELIVERABLES

[TO BE UPDATED AND REVISED TO REFLECT FINAL SCOPE OF SERVICES]

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

Architect’s deliverables under the Agreement are as follows. Architect shall submit to District all deliverables as specified in Paragraph 2.03, General Criteria Governing Architect’s Deliverables on Project, of Appendix A:

ARTICLE 1 DSA COORDINATION DELIVERABLES

1.01 The deliverables required for the Division of the State Architect (“**DSA**”) coordination are defined in Article 2 and Article 3 of Appendix A, and include without limitation the following:

- A. Report on time required for review and approval of project plans and specifications (for inclusion in project master schedule).
- B. Report on suggested methods of DSA pre-approval of change orders.
- C. Report on all deferred approval items for which contractor must submit early its shop drawings, product samples and other submittals, necessary for DSA review and approval in time to not impact construction progress.
- D. Recommendations on selection of Project Inspector, approval of proposed Project Inspector, and submit required application for approval to DSA.
- E. Recommendations on choice of testing agency suitable for the contract.

ARTICLE 2 PROGRAMMING PHASE

2.01 The deliverables required by the Programming Phase are defined in Article 4 of Appendix A and include without limitation the following:

- A. Space schematics/flow diagrams.
- B. Existing facility survey information.
- C. Preliminary Estimate of Probable Total Construction Cost.
- D. Meeting Minutes/Reports.

ARTICLE 3 SCHEMATIC DESIGN PHASE

3.01 The deliverables required by the Schematic Design Phase are defined in Article 5 of Appendix A and include without limitation the following:

- A. Written recommendations on required additional information and data.
- B. Estimate of Probable Total Construction Cost and duration of the Project, and alternatives.
- C. Schematic layouts, sketches and conceptual design criteria, with supporting reports and exhibits.
- D. Comparative studies for major building systems (for Lifecycle Alternates Workshop).
- E. Work phasing recommendations.
- F. Information and diagrams for required meetings.

- G. Report of interfacing meeting with District groups
- H. Summary Report of Design Compliance with CEQA Mitigation Measures.
- I. Meeting Minutes/Reports.

ARTICLE 4 DESIGN DEVELOPMENT PHASE

4.01 The deliverables required by the Design Development Phase are defined in Article 6 of Appendix A and include without limitation the following:

- A. Reports on whether further data, information or permits or reports are needed.
- B. Revised Estimate of Probable Total Construction Cost.
- C. Written design criteria for mechanical and electrical systems.
- D. Comparative cost studies for major building systems (for Life Cycle Alternates Workshop).
- E. Information and diagrams for required meetings.
- F. Technical criteria, written descriptions and design data as needed for permits and approvals.
- G. Comprehensive update on Estimates on Probable Total Construction Costs and duration of the Project.
- H. Preparation of supplementary conditions to the Construction Contract and additional bidding requirements.
- I. Required disclosures regarding the final design.
- J. Written certification.
- K. Updated Summary Report of Design Compliance with CEQA Mitigation Measures.
- L. Meeting Minutes/Reports.

ARTICLE 5 CONSTRUCTION DOCUMENT PHASE

5.01 The deliverables required by the Construction Document Phase are defined in Article 7 of Appendix A and include without limitation the following:

- A. Reports on whether further data, information or permits or reports are needed.
- B. Revised Estimate of Probable Total Construction Cost.
- C. Written design criteria for mechanical and electrical systems and IT/AV low voltage systems..
- D. Comparative cost studies for major building systems (for Life Cycle Alternates Workshop).
- E. Information and diagrams for required meetings.
- F. Technical criteria, written descriptions and design data as needed for permits and approvals.
- G. Comprehensive update on Estimates on Probable Total Construction Cost and duration of the Project.
- H. Preparation of supplementary conditions to the Construction Contract and additional bidding requirements.
- I. Required disclosures regarding the final design.
- J. Written certification.
- K. Final Summary Report of Design Compliance with CEQA Mitigation Measures.
- L. Meeting Minutes/Reports.

ARTICLE 6 BIDDING PHASE

6.01 The deliverables required by the Bidding Phase are defined in Article 8 of Appendix A and include without limitation the following:

- A. Written addenda (where necessary).
- B. Written determinations regarding proposed substitutes.
- C. Conformed set of drawings and specifications.
- D. Notice of Contract to DSA.

ARTICLE 7 CONSTRUCTION PHASE

7.01 The deliverables required by the Construction Phase are defined in Article 9 of Appendix A and include without limitation the following:

- A. Necessary notices, communications, interpretations, clarifications, as required by and in the format required by Paragraph 8 of Appendix A, including without limitation:
 - 1. Verified Reports of Architect, Inspector, and Contractor submitted in the form and frequency required by Title 24, and at conclusion of Project or Consultant's services.
 - 2. Notice of start of construction.
 - 3. Reports and notices as required by other Authorities Having Jurisdiction.
 - 4. Meeting Minutes/Reports.
 - 5. Contractor Payment Recommendations
 - 6. Field Reports
 - 7. RFI Responses
 - 8. Submittal Reviews
 - 9. Opinion Memos regarding entitlement for Contractor's change order requests (upon Project Manager's request).
- B. Certificates of Substantial Completion and Final Completion.
- C. Punch lists.

ARTICLE 8 OPERATION/PROJECT CLOSE-OUT PHASE.

8.01 The deliverables required by the Operation/Close Out Phase are defined in Article 10 of Appendix A and include without limitation the following:

- A. Electronic record sets and sets of reproducible record prints of drawings showing changes made during construction.
- B. Electronic record sets and sets of prints of Technical Specifications showing changes made during construction.

ARTICLE 9 BIM

9.01 See requirements of Appendix F BIM.

END OF APPENDIX D

APPENDIX E

INSURANCE

[Subject to District Contracts Manager Review]

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ENTER NAME OF ARCHITECT], (“**Architect**”) providing for professional services.

ARTICLE 1 ARCHITECT’S DUTY TO SHOW PROOF OF INSURANCE.

- 1.01** Prior to the execution of this Agreement and before work begins, Architect shall furnish to District Certificates of Insurance showing satisfactory proof that Architect maintain for the entire period required by this Agreement, as further described below, the following insurance. Failure to obtain the required documents prior to the work beginning shall not waive the Architect’s obligation to provide them. Said insurance shall be in a form satisfactory to District and with an insurance carrier satisfactory to District, authorized to do business in California and rated by A. M. Best & Company “**A-**” or better, financial category size **X** or better, which will protect those described below from claims described below which arise or are alleged to have arisen out of or result from the acts or omissions of Architect for which Architect may be legally liable, whether performed by Architect, or by those employed directly or indirectly by it, or by anyone for whose acts Architect may be liable:
- A. Commercial General Liability Insurance
Commercial general liability insurance, written on an “occurrence” basis, which shall provide coverage for bodily injury, death and property damage resulting from operations, products liability, liability for slander, false arrest and invasion of privacy , blanket contractual liability, broad form endorsement, products and completed operations, personal and advertising liability, with per location limits of not less than \$2,000,000 annual general aggregate and \$1,000,000 each occurrence.
 - B. Excess Liability Insurance
Excess liability insurance, on an “Occurrence” form, coverage should apply and follow form over primary coverages shown above. Limits must apply per any one occurrence and general aggregate annually; and Annual Aggregate Products and Completed Operations. The following are required excess limits of liability: \$2,000,000 Bodily Injury and Property Damage Liability, \$2,000,000 General Aggregate, \$2,000,000 Products and Completed Operations.
 - C. Business Automobile Liability Insurance
Business automobile liability insurance with limits not less than \$1,000,000; each occurrence including coverage for owned, non-owned and hired vehicles.
 - D. Workers’ Compensation Insurance
Workers’ Compensation Employers’ Liability limits required by the laws of the State of California. Architect’s Worker’s Compensation Insurance policy shall contain a Waiver of Subrogation. In the event Architect is self-insured, it shall furnish Certificate of Permission to Self-Insure signed by Department of Industrial Relations Administration of Self-Insurance, State of California.
 - E. Professional Liability Insurance
Professional Liability Insurance satisfying either of the two following requirements: (a) specific to this Project only, with limits not less than \$1,000,000 each claim, or (b) limits of not less than \$2,000,000 each claim and aggregate. Such Professional Liability Insurance shall apply to and insure against Consultant’s negligent acts, errors or omissions in connection with services to be provided under this Agreement. Such Professional Liability Insurance policy shall be maintained for a period of five years after the Completion of the Services.

ARTICLE 2 SUBCONSULTANT INSURANCE *[Optional—to be addressed on an Agreement-By-Agreement basis]*

- 2.01** The Subconsultants identified below shall maintain all insurance required to be maintained by Architect, with minimum limits as indicated:

Subconsultant	CGL Amount	Automobile Amount	Workers' Compensation	Professional Amount
	\$1M per Occur/ \$2M Agg	\$1M	Statutory Limits	\$1M

ARTICLE 3 INSURANCE TERMS AND CONDITIONS:

- 3.01** Status of SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT as Additional Insured.
The SAN MATEO COUNTY COMMUNITY COLLEGE DISTRICT and its Trustees, officers, officials, agents, representatives, employees, and volunteers, shall be covered as additional insureds on Consultant's primary and excess Commercial General Liability policies, and business automobile liability policy, but only with respect to liability arising out of the activities of the named insured, and there shall be a waiver of subrogation as to each named and additional insured.
- 3.02** **Waiver of Subrogation.**
- A. Architect (and if applicable Subconsultant) hereby grants to District a waiver of any right to subrogation which any insurer of said Architect (or Subconsultant) may acquire against the District by virtue of the payment of any loss under such insurance. Architect (or Subconsultant) agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.
- 3.03** The policies shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company's liability, and the policies shall not contain any "cross suits" or "insured vs. insured" exclusions with regards to the coverage afforded to additional insureds.
- 3.04** Certificates of Insurance shall include the following statement: "Written notice of cancellation, non-renewal or of any material change in policy shall be mailed to District thirty (30) days in advance of the effective date thereof."
- 3.05** Architect's (and if applicable Subconsultant's) insurance shall be primary insurance and no other insurance or self-insured retention carried or held by any named or additional insureds other than that amount Architect shall be called upon to contribute to a loss covered by insurance for the named insured. Any District insurance shall be excess and noncontributing to any insurance available to the District as an additional insured under Consultant's (or any Subconsultant's) primary and excess Commercial General Liability policies provided pursuant to this Agreement
- 3.06** Nothing contained herein shall be construed as limiting in any way the extent to which Architect or any of its Subconsultants or employees may be held responsible for payment of damages resulting from their operations.

END OF APPENDIX E

APPENDIX F

BUILDING INFORMATION MODEL

[If applicable to Project; to be Included in Both Architect Agreement and Construction Contract]

This is an Appendix attached to, and made a part of and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

1. Building Information Modeling Goals

- 1.1. To the greatest extent practical, all Project information will be developed and maintained through the use of Building Information Modeling (“BIM”). The design will be developed in the BIM, constructability and cost information will be incorporated through the BIM, conflict resolution will occur through the BIM, Shop Drawings will be submitted and reviewed through the BIM, and the BIM will be kept current to reflect as constructed conditions. In addition, BIM elements will contain information relevant to facility operation and maintenance that can be exported to District’s computerized maintenance management system.

2. Architect’s Design and Initial Hosting of BIM

- 2.1. Architect shall develop a Building Information Model (“BIM”) based on the architectural and structural designs throughout design development, including development of the Design Development Phase Drawings, the final Drawings and any modifications approved by District.
- 2.2. Architect shall develop the BIM based on best practices within applicable architectural and engineering disciplines, including without limitation the applicable level of development (“LOD”) for each element of the Project, and shall provide District with a report identifying such matters and areas for further (or lesser) development. Following District approval, Architect shall develop the BIM as directed or approved by District.
- 2.3. Architect shall host and manage the BIM during development of the Project’s design. Architect’s hosting and managing responsibilities shall include without limitation: (i.) collecting, coordinating, and confirming the usability of, incoming models from Project participants; (ii.) maintaining periodic record copies; (iii.) aggregating incoming models and making the BIM available for use and viewing by Project participants; (iv.) performing and assisting in performing clash detection in the model and/or with any District-approved modifications; (v.) issuing periodic clash detection reports; (vi.) managing access rights; and (vii.) updating the BIM to reflect current designs and revisions.
- 2.4. Architect shall correct and clarify any clashes, coordination or issues resulting from the BIM within Architect’s Design Services. Coordination and design corrections and clarifications resulting from such further modeling (whether performed by Architect, Contractor or sub-contractors) shall be within Architect’s Design Services.

3. BIM Workshop and Pre-Construction Phase BIM Activities

- 3.1. If directed by District, Architect and its design team will meet with the Contractor and all sub-contractors that will be interacting with or using BIM information to develop protocols for developing, implementing, reviewing, and exchanging information through the BIM (“BIM Workshop”). Through the BIM Workshop, Contractor, major sub-contractors and Architect’s design team will discuss, coordinate, test and adjust their BIM practices, to allow information to be used, to the greatest practical extent, by all parties for their respective purposes.
- 3.2. The Architect shall draft rules and guidelines for accessing and developing the BIM (“BIM Execution Plan”). Architect will be responsible for managing compliance with the BIM

Execution Plan, and will be responsible for any costs incurred by the District as a result of the damage to the BIM caused by any failure to comply with the BIM Execution Plan.

4. Transfer to and Hosting of BIM by Contractor

- 4.1. Upon the completion of Final Construction Documents, Architect will transfer the BIM to Contractor who will host and manage the BIM through construction and until completion of the Project. Contractor will use the BIM to assist Contractor in its work to coordinate the design and the implementation of the design by Contractor and its sub-contractors. Contractor will manage the clash detection and coordination process during the construction phase, through preparation of all shop drawings and submittals necessary for construction. Contractor will continue to accomplish clash detection.

5. General

- 5.1. Architect and Contractor and each major sub-contractors must be capable of utilizing the BIM to perform the functions set forth in paragraphs 2.1 and 3.1 above.
- 5.2. **Ownership.** The Building Information Model and subsidiary models necessary for design and construction of the Project are the property of the District, and the Architect agrees to provide the District, as a deliverable before Final Completion, the BIM and all related files in its possession. Despite the above, design elements that were created by the Architect or other Project team members as extensions to commercially available BIM software will remain the property of the respective party that created the extension, regardless of whether it was used in the BIM for this project. District will hold a non-exclusive, irrevocable royalty-free, world-wide license to those design elements for purposes of this Project.
- 5.3. **Licensing.** The Architect is granted a limited, non-exclusive license to use and reproduce applicable portions of the BIM, subsidiary models and related BIM information solely for the purpose of designing, analyzing, and constructing this Project and for its future maintenance and remodeling. In addition, provided the Architect has not been terminated for convenience or cause, the District grants the Architect and Construction Manager a non-exclusive, perpetual license for use or display of the Project BIM information solely for educational or promotional purposes.
- 5.4. The BIM provides controlling dimensional information except where the dimensional drawings are intended to be prepared at a greater level of accuracy, in which case the final permitted Drawings or Specifications control.

END OF APPENDIX F

APPENDIX G

DISCIPLINES/SPECIALTY SUBCONSULTANTS

This is an Appendix attached to, and made a part of and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

Architect shall provide to District all professional architectural and engineering services necessary to perform the Services in all phases of the Project to which this Agreement applies. Services will include, but are not limited to, providing all professional architectural and engineering services necessary to perform the Services and complete Project to which this Agreement applies including, but not limited to, all architectural services and providing the following discipline/specialty subconsultants as required to perform the Services on the Project to which this Agreement applies.

Discipline/Specialty [PM to conform to project]	Proposed Firm Name (Subject to District Approval)
Civil Engineer	
Structural Engineer	
MEP Engineering/Energy	
Landscape Architect	
Pool Design & Engineering	
Fire Protection Engineer	
Acoustical Consultant	
Audio Visual Consultant	
Building Envelope / Waterproofing	
LEED Consultant	
Commissioning Agent	Furnished by District

END OF APPENDIX G

APPENDIX H

DISTRICT DESIGN STANDARDS

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

[INSERT CURRENT DESIGN STANDARDS AND CONSTRUCTION SPECIFICATIONS LOG
LOCATED HERE: <https://downloads.smccd.edu/browse/facilitiesds>]

END OF APPENDIX H

APPENDIX I
[SELECT APPROPRIATE CAMPUS MMRP APPLICABLE TO PROJECT]
DISTRICT MITIGATION MONITORING AND REPORTING PROGRAM (MMRP)

This is an Appendix attached to, made a part of, and incorporated by reference to the Agreement dated [DATE] between the San Mateo County Community College District (the “**District**”), and [ARCHITECT], (“**Architect**”) providing for professional services.

Architect shall incorporate the requirements of the following mitigation measures adopted by the District into the Project design, including but not limited to any findings and recommendations from other third party generated reports to facilitate these measures, at no additional cost to the District. The mitigation measures are described in the District’s Final Environmental Impact Report located at: <https://www.smccd.edu/facilities/community/>.

Cañada College
Aesthetics

- A. Mitigation Measure CC-AES-2: Apply aesthetic design treatments to buildings within scenic views, including vistas, at Cañada College
 - 1. Buildings associated with the Project to be located within scenic vista views will be designed in a manner that allows these features to blend with the surrounding built and natural environments so that these structures complement the visual landscape. The District will meet with the Town of Woodside Manager regarding the architecture of Building 1 at Cañada College. The following measures will be applied.
 - i. Visible roofing materials will be selected to balance aesthetics with energy performance and compliance with codes and standards using a color shade that is visually cohesive with and darker than the general surrounding natural area. Colors may be chosen from the U.S. Department of the Interior Bureau of Land Management (BLM) Standard Environmental Colors Chart CC-001: June 2008. The building designer will employ the use of color panels as mock-ups which will be evaluated from key observation points during common lighting conditions (front versus backlighting) to aid in the appropriate color selection. Panels will be a minimum of 3 by 2 feet in dimension and will be evaluated from various distances, but within 1,000 feet, to ensure the best possible color selection. Color selection will be made for the coloring of the most prevalent season, and the intent is to match the panels to this surrounding coloring and pick a color that best fits. Choosing a shade that is darker will allow the surface to recede and blend within the visual landscape whereas a lighter color advances or is more apparent within the visual landscape.
 - ii. New building facades will be finished in earth tones to help buildings blend better within the natural setting. White and lighter beiges and tans, which would make buildings stand out and contrast against nearby darker tree canopies, will be avoided.
- A. Mitigation Measure CC-AES-3: Apply minimum lighting standards at Cañada College
 - 1. The District will implement an interior lighting policy for all new buildings that does the following:
 - i. Building design would be required to include low-intensity interior safety lighting for use during afterhours. This practice would decrease the amount of nighttime light that would occur from using standard interior lighting as safety lighting.
 - ii. Use of interior lights to ensure building safety as required by code, but the unnecessary overuse of interior nighttime lighting would be prevented by requiring that interior spaces implement a “lights-off” policy. This practice requires that all non-safety lighting be turned off at night (such as in offices, classrooms, and hallways), after instructional hours. This may be

accommodated by utilizing automatic motion sensor lighting that is programmed for use afterhours.

- iii. Use of harsh mercury vapor or low-pressure sodium bulbs would be prohibited.
 2. All artificial outdoor lighting will be limited to safety and security requirements, designed using Illuminating Engineering Society's design guidelines and in compliance with International Dark-Sky Association approved fixtures. All lighting is designed to have minimum impact on the surrounding environment and will use downcast, cut-off type fixtures that direct the light only towards objects requiring illumination. Shielding will be utilized, where needed, to ensure light pollution is minimized. Therefore, lights will be installed at the lowest allowable height and cast low-angle illumination while minimizing incidental light spill onto adjacent properties, open spaces, or backscatter into the nighttime sky. The lowest allowable illuminance level will be used for all lighted areas and the amount of nighttime lights needed to light an area will be minimized to the highest degree possible. Light fixtures will have non-glare finishes that will not cause reflective daytime glare. Lighting will be designed for energy efficiency and have daylight sensors or be timed with an on/off program. Lights will provide good color rendering with natural light qualities with the minimum intensity feasible for security, safety, and personnel access. Lighting, including light color rendering and fixture types, will be designed to be aesthetically pleasing.
 3. LED lighting will avoid the use of blue-rich white light lamps and use a correlated color temperature that is no higher than 3,000 Kelvin (International Dark-Sky Association 2010a, 2010b, 2015). Wherever possible and pragmatic, the District will use fixtures and lighting control systems that conform to International Dark-Sky Association's Fixture Seal of Approval program. In addition, LED lights will use shielding to ensure nuisance glare and that light spill does not affect sensitive residential viewers.
 4. Lights along pathways and safety lighting at building entrances and loading areas will employ shielding to minimize offsite light spill and glare and be screened and directed away from residences and adjacent uses to the highest degree possible. The amount of nighttime lights used along pathways will be minimized to the highest degree possible to ensure that spaces are not unnecessarily over-lit, while still maintaining minimum adequate lighting to provide necessary visibility for security. For example, the amount of light can be reduced by limiting the amount of ornamental light posts to higher use areas and by using hooded wall mounts or bollard lighting on travel way portions of pathways.
 5. In particular, pool lighting will employ spill and glare control features to minimize off-site light pollution. Luminaires will be chosen for the ability to provide horizontal and vertical beam control for better control in directing what is illuminated. In addition, shielding, such as a visor, will be used to further direct light and reduce light spill and ambient light glow. Luminaires will also incorporate photometric reflector systems that are designed to reduce light pollution.
 6. Technologies to reduce light pollution evolve over time and design measures that are currently available may help but may not be the most effective means of controlling light pollution once the Project is designed. Therefore, all design measures used to reduce light pollution will employ the technologies available at the time of Project design to allow for the highest potential reduction in light pollution.
- B. Mitigation Measure CC-AES-4: Remediate the potential for hazard glare at new Kinesiology/Wellness building at Cañada College
1. Windows installed in the new Building 1, Kinesiology/Wellness, will be selected for their ability to minimize glare and specular highlighting. To the extent feasible, windows will be designed to effectively reduce the refractive index of protective glass windows.

Geology and Soils

- A. Mitigation Measure CC-GEO-1: Prepare a site-specific geotechnical investigation for all structures to be occupied by humans at Cañada College and comply with recommendations
1. The District will have a qualified engineer prepare design-level geotechnical investigations for each Project element involving human occupation. The geotechnical

investigation report will include recommendations to ensure the building is designed in accordance with the specifications of CGS Special Publication 117, Guidelines for Evaluating and Mitigating Seismic Hazards, and the requirements of the Seismic Hazards Mapping Act, which will minimize the structural damage and risk to humans from seismically induced groundshaking. The Architect of Record, the District and DSA will ensure that recommendations made in the geotechnical report will be implemented as part of the Project's design and construction.

2. Recommendations may include considerations for design of permanent below-grade walls to resist static lateral earth pressures, lateral pressures caused by seismic activity, and traffic loads; a method for backdraining walls to prevent the buildup of hydrostatic pressure; considerations for design of excavation shoring system; excavation monitoring; and seismic design.
- B. Mitigation Measure CC-GEO-2: Stockpile topsoil removed during construction at Cañada College and reuse stockpiled topsoil during revegetation
1. To ensure maximum topsoil recovery, topsoil will be stockpiled separately from other excavated materials and covered so revegetation and landscaping will use stockpiled topsoil. The Architect/Engineer of record shall delineate separate topsoil stockpile areas from other excavated spoil stockpiles on the civil/landscaping drawings.

Hydrology and Water Quality

- A. Mitigation Measure CC-HYD-2: Design and maintain hydromodification features as postconstruction measures at the Cañada College
1. The Architect/Engineer of record will ensure that facility improvement areas are incorporated into the design prior to the construction phase, where feasible, and located to limit the volume of additional stormwater runoff by matching post-project flows to pre-project flows, and provide for onsite treatment of contaminants. These facility improvement areas will be open, level areas vegetated to allow runoff to be distributed evenly across the area. Generally, they will be designed to treat runoff by filtering raw runoff through the soil media in the treatment area to trap particulate pollutants (suspended solids and trace metals) and promote infiltration. However, alternative methods to treat runoff may be used, such as bio-filtration basins, underground detention and retention vaults or tanks, gravel beds, perforated pipes, stormwater chambers, pervious pavement, and green roofs that contain filtration media. Project areas will be designed to treat runoff so that pollutants (e.g., sediment, landscape fertilizers and/or pesticides, oil from parking areas) can be filtered out and, therefore, the Project will not contribute a substantial number of additional pollutants to runoff.

College of San Mateo

Aesthetics

- A. Mitigation Measure CSM-AES-4: Apply minimum lighting standards at the College of San Mateo
1. The District will implement an interior lighting policy for all new buildings that does the following:
 - i. Building design would be required to include low-intensity interior safety lighting for use during afterhours. This practice would decrease the amount of nighttime light that would occur from using standard interior lighting as safety lighting.
 - ii. Use of interior lights to ensure building safety as required by code, but the unnecessary overuse of interior nighttime lighting would be prevented by requiring that interior spaces implement a "lights-off" policy. This practice requires that all non-safety lighting be turned off at night (such as in offices, classrooms, and hallways), after instructional hours. This may be accommodated by utilizing automatic motion sensor lighting that is programmed for use afterhours.
 - iii. Use of harsh mercury vapor or low-pressure sodium bulbs would be prohibited.

2. All artificial outdoor lighting will be limited to safety and security requirements, designed using Illuminating Engineering Society's design guidelines and in compliance with International Dark-Sky Association approved fixtures. All lighting is designed to have minimum impact on the surrounding environment and will use downcast, cut-off type fixtures that direct the light only towards objects requiring illumination. Shielding will be utilized, where needed, to ensure light pollution is minimized. Therefore, lights will be installed at the lowest allowable height and cast low-angle illumination while minimizing incidental light spill onto adjacent properties, open spaces, or backscatter into the nighttime sky. The lowest allowable illuminance level will be used for all lighted areas and the amount of nighttime lights needed to light an area will be minimized to the highest degree possible. Light fixtures will have non-glare finishes that will not cause reflective daytime glare. Lighting will be designed for energy efficiency and have daylight sensors or be timed with an on/off program. Lights will provide good color rendering with natural light qualities with the minimum intensity feasible for security, safety, and personnel access. Lighting, including light color rendering and fixture types, will be designed to be aesthetically pleasing.
3. LED lighting will avoid the use of blue-rich white light lamps and use a correlated color temperature that is no higher than 3,000 Kelvin (International Dark-Sky Association 2010a, 2010b, 2015). Wherever possible and pragmatic, the District will use fixtures and lighting control systems that conform to International Dark-Sky Association's Fixture Seal of Approval program. In addition, LED lights will use shielding to ensure nuisance glare and that light spill does not affect sensitive residential viewers.
4. Lights along pathways and safety lighting at building entrances and loading areas will employ shielding to minimize offsite light spill and glare and be screened and directed away from residences and adjacent uses to the highest degree possible. The amount of nighttime lights used along pathways will be minimized to the highest degree possible to ensure that spaces are not unnecessarily over-lit, while still maintaining minimum adequate lighting to provide necessary visibility for security. For example, the amount of light can be reduced by limiting the amount of ornamental light posts to higher use areas and by using hooded wall mounts or bollard lighting on travel way portions of pathways.
5. In particular, pool lighting will employ spill and glare control features to minimize off-site light pollution. Luminaires will be chosen for the ability to provide horizontal and vertical beam control for better control in directing what is illuminated. In addition, shielding, such as a visor, will be used to further direct light and reduce light spill and ambient light glow. Luminaires will also incorporate photometric reflector systems that are designed to reduce light pollution.

Geology and Soils

- A. Mitigation Measure CSM-GEO-1: Prepare a site-specific geotechnical investigation for all structures to be occupied by humans at the College of San Mateo and comply with recommendations
 1. The District will have a qualified engineer prepare design-level geotechnical investigations for each Project element involving human occupation. The geotechnical investigation report will include recommendations to ensure the building is designed in accordance with the specifications of CGS Special Publication 117, Guidelines for Evaluating and Mitigating Seismic Hazards, and the requirements of the Seismic Hazards Mapping Act, which will minimize the structural damage and risk to humans from seismically induced groundshaking. The District and DSA will ensure that recommendations made in the geotechnical report will be implemented as part of the Project's design and construction.
 2. Recommendations may include considerations for design of permanent below-grade walls to resist static lateral earth pressures, lateral pressures caused by seismic activity, and traffic loads; a method for backdraining walls to prevent the buildup of hydrostatic pressure; considerations for design of excavation shoring system; excavation monitoring; and seismic design.

- B. Mitigation Measure CSM-GEO-2: Stockpile topsoil removed during construction at the College of San Mateo and reuse stockpiled topsoil during revegetation
1. To ensure maximum topsoil recovery, topsoil will be stockpiled separately from other excavated materials and covered so revegetation and landscaping will use stockpiled topsoil. The Architect/Engineer of record shall delineate separate topsoil stockpile areas from other excavated spoil stockpiles on the civil/landscaping drawings.

Hydrology and Water Quality

- A. Mitigation Measure CSM-HYD-2: Design and maintain hydromodification features as postconstruction measures at the College of San Mateo
1. The Architect/Engineer of record will ensure that facility improvement areas are incorporated into the design prior to the construction phase, where feasible, and located to limit the volume of additional stormwater runoff by matching post-project flows to pre-project flows, and provide for onsite treatment of contaminants. These facility improvement areas will be open, level areas vegetated to allow runoff to be distributed evenly across the area. Generally, they will be designed to treat runoff by filtering raw runoff through the soil media in the treatment area to trap particulate pollutants (suspended solids and trace metals) and promote infiltration. However, alternative methods to treat runoff may be used, such as bio-filtration basins, underground detention and retention vaults or tanks, gravel beds, perforated pipes, stormwater chambers, pervious pavement, and green roofs that contain filtration media. Project areas will be designed to treat runoff so that pollutants (e.g., sediment, landscape fertilizers and/or pesticides, oil from parking areas) can be filtered out and, therefore, the Project will not contribute a substantial number of additional pollutants to runoff.

Skyline College

Aesthetics

- A. Mitigation Measure SC-AES-2: Apply aesthetic design treatments to buildings within scenic views, including vistas, at Skyline College
1. Buildings associated with the Project to be located within scenic vista views will be designed in a manner that allows these features to blend with the surrounding built and natural environments so that these structures complement the visual landscape. The following measures will be applied.
 - i. Visible roofing materials will be selected to balance aesthetics with energy performance and compliance with codes and standards using a color shade that is visually cohesive with and darker than the general surrounding natural area. Colors may be chosen from the U.S. Department of the Interior Bureau of Land Management (BLM) Standard Environmental Colors Chart CC-001: June 2008. The building designer will employ the use of color panels as mock-ups which will be evaluated from key observation points during common lighting conditions (front versus backlighting) to aid in the appropriate color selection. Panels will be a minimum of 3 by 2 feet in dimension and will be evaluated from various distances, but within 1,000 feet, to ensure the best possible color selection. Color selection will be made for the coloring of the most prevalent season, and the intent is to match the panels to this surrounding coloring and pick a color that best fits. Choosing a shade that is darker will allow the surface to recede and blend within the visual landscape whereas a lighter color advances or is more apparent within the visual landscape.
 - ii. New building facades will be finished in earth tones to help buildings blend better within the natural setting. White and lighter beiges and tans, which would make buildings stand out and contrast against nearby darker tree canopies, will be avoided.
- B. Mitigation Measure SC-AES-3: Ensure new residential development blends with existing residential development at Skyline College

1. New residential development at Skyline College will be designed in a manner that it is sensitive to and blends with adjacent residential development. As such, the new development will be designed to be consistent in height and massing to existing development. Façade treatments and landscaping will also be similar to ensure visual cohesion between new and existing development.
- C. Mitigation Measure SC-AES-4: Apply minimum lighting standards at Skyline College
1. The District will implement an interior lighting policy for all new buildings that does the following:
 - i. Building design would be required to include low-intensity interior safety lighting for use during afterhours. This practice would decrease the amount of nighttime light that would occur from using standard interior lighting as safety lighting.
 - ii. Use of interior lights to ensure building safety as required by code, but the unnecessary overuse of interior nighttime lighting would be prevented by requiring that interior spaces implement a "lights-off" policy. This practice requires that all non-safety lighting be turned off at night (such as in offices, classrooms, and hallways), after instructional hours. This may be accommodated by utilizing automatic motion sensor lighting that is programmed for use afterhours.
 - iii. Use of harsh mercury vapor or low-pressure sodium bulbs would be prohibited.
 2. All artificial outdoor lighting will be limited to safety and security requirements, designed using Illuminating Engineering Society's design guidelines and in compliance with International Dark-Sky Association approved fixtures. All lighting is designed to have minimum impact on the surrounding environment and will use downcast, cut-off type fixtures that direct the light only towards objects requiring illumination. Shielding will be utilized, where needed, to ensure light pollution is minimized. Therefore, lights will be installed at the lowest allowable height and cast low-angle illumination while minimizing incidental light spill onto adjacent properties, open spaces, or backscatter into the nighttime sky. The lowest allowable illuminance level will be used for all lighted areas and the amount of nighttime lights needed to light an area will be minimized to the highest degree possible. Light fixtures will have non-glare finishes that will not cause reflective daytime glare. Lighting will be designed for energy efficiency and have daylight sensors or be timed with an on/off program. Lights will provide good color rendering with natural light qualities with the minimum intensity feasible for security, safety, and personnel access. Lighting, including light color rendering and fixture types, will be designed to be aesthetically pleasing.
 3. LED lighting will avoid the use of blue-rich white light lamps and use a correlated color temperature that is no higher than 3,000 Kelvin (International Dark-Sky Association 2010a, 2010b, 2015). Wherever possible and pragmatic, the District will use fixtures and lighting control systems that conform to International Dark-Sky Association's Fixture Seal of Approval program. In addition, LED lights will use shielding to ensure nuisance glare and that light spill does not affect sensitive residential viewers.
 4. Lights along pathways and safety lighting at building entrances and loading areas will employ shielding to minimize offsite light spill and glare and be screened and directed away from residences and adjacent uses to the highest degree possible. The amount of nighttime lights used along pathways will be minimized to the highest degree possible to ensure that spaces are not unnecessarily over-lit, while still maintaining minimum adequate lighting to provide necessary visibility for security. For example, the amount of light can be reduced by limiting the amount of ornamental light posts to higher use areas and by using hooded wall mounts or bollard lighting on travel way portions of pathways.
 5. In particular, pool lighting will employ spill and glare control features to minimize off-site light pollution. Luminaires will be chosen for the ability to provide horizontal and

vertical beam control for better control in directing what is illuminated. In addition, shielding, such as a visor, will be used to further direct light and reduce light spill and ambient light glow. Luminaires will also incorporate photometric reflector systems that are designed to reduce light pollution.

Biological Resources

- A. Mitigation Measure SC-BIO-5: Implement tree avoidance, minimization, and replacement plan at the residential development site at Skyline College
1. The definition of heritage tree for the purposes of this mitigation will be the same definition used in Chapter 8.25 of the City of San Bruno (City) Municipal Code. If there are heritage trees on the residential development site (Surplus Parcel B) that would be removed or pruned in conjunction with the development, then prior to ground disturbance, the District will apply for and receive a heritage tree removal permit from the City. The District will comply with the conditions of that permit.
 2. Tree Survey—Prior to ground disturbance, the District or its representative will hire a certified arborist for the purpose of surveying Surplus Parcel B to identify any trees that would qualify as heritage trees under Chapter 8.25 of the City's municipal code. The arborist will prepare a report describing the existing trees on the site and whether any qualify as heritage trees requiring a permit from the City for their removal or pruning.
 3. Site Plan—If there are qualifying heritage trees, then the arborist will prepare a site plan that accurately indicates the location, species, tree dripline, and trunk circumference of all qualifying trees whose tree trunks lie within 50 feet (15.2 meters) of proposed Project activities, or other proposed development activity (e.g., staging areas, stockpiling of construction materials, fill, etc.). The site plan will include any qualifying trees whose trunks lie on adjoining property but whose canopies (driplines) extends onto the Project site if any pruning of those trees is to be undertaken as part of the development of Surplus Parcel B. The site plan will indicate which individual trees are proposed to be (1) removed, (2) pruned in conjunction with the residential Project, or (3) protected by exclusion fencing at the dripline or as prescribed by the arborist. The plan will contain a tally of the total number of trees proposed to be removed and their respective tree circumferences. If the City has previously designated one or more trees on the site or an adjoining site as a Heritage Tree(s), then those trees will be so labeled on the site plan.
 4. Heritage Tree Removal Permit Information—In order to inform the removal permit application, the arborist's report will include the following information about the affected heritage trees.
 - i. The condition of the tree or trees with respect to disease, danger of falling, proximity to existing or proposed structures and interference with utility services.
 - ii. The necessity to remove the tree or trees in order to construct any proposed improvements to allow reasonable economic enjoyment of the property.
 - iii. The topography of the land and the effect of the removal of the tree on erosion, soil retention, and diversion or increased flow of surface waters.
 - iv. The number of trees existing in the neighborhood on improved property and the effect the removal would have on the established standard of the area and property values.
 - v. The number of trees the particular parcel can adequately support according to good arboricultural practices.
 - vi. Photographs of the tree(s) proposed to be affected.
 5. No Qualifying Trees on Site—If the site contains no trees that meet Chapter 8.25 definitions, this will be indicated on the site plan.

Geology and Soils

- A. Mitigation Measure SC-GEO-1: Prepare a site-specific geotechnical investigation for all structures to be occupied by humans at Skyline College and comply with recommendations

1. The District will have a qualified engineer prepare design-level geotechnical investigations for each Project element involving human occupation. The geotechnical investigation report will include recommendations to ensure the building is designed in accordance with the specifications of CGS Special Publication 117, Guidelines for Evaluating and Mitigating Seismic Hazards, and the requirements of the Seismic Hazards Mapping Act, which will minimize the structural damage and risk to humans from seismically induced ground shaking. The District and DSA will ensure that recommendations made in the geotechnical report will be implemented as part of the Project's design and construction.
 2. Recommendations may include considerations for design of permanent below-grade walls to resist static lateral earth pressures, lateral pressures caused by seismic activity, and traffic loads; a method for back draining walls to prevent the buildup of hydrostatic pressure; considerations for design of excavation shoring system; excavation monitoring; and seismic design.
- B. Mitigation Measure SC-GEO-2: Stockpile topsoil removed during construction at Skyline College and reuse stockpiled topsoil during revegetation
1. To ensure maximum topsoil recovery, topsoil will be stockpiled separately from other excavated materials and covered so revegetation and landscaping will use stockpiled topsoil. The Architect/Engineer of record shall delineate separate topsoil stockpile areas from other excavated spoil stockpiles on the civil/landscaping drawings.

Hydrology and Water Quality

- A. Mitigation Measure SC-HYD-2: Design and maintain hydromodification features as postconstruction measures at the Skyline College
1. The Architect/Engineer of record will ensure that facility improvement areas are incorporated into the design prior to the construction phase, where feasible, and located to limit the volume of additional stormwater runoff by matching post-project flows to pre-project flows, and provide for onsite treatment of contaminants. These facility improvement areas will be open, level areas vegetated to allow runoff to be distributed evenly across the area. Generally, they will be designed to treat runoff by filtering raw runoff through the soil media in the treatment area to trap particulate pollutants (suspended solids and trace metals) and promote infiltration. However, alternative methods to treat runoff may be used, such as bio-filtration basins, underground detention and retention vaults or tanks, gravel beds, perforated pipes, stormwater chambers, pervious pavement, and green roofs that contain filtration media. Project areas will be designed to treat runoff so that pollutants (e.g., sediment, landscape fertilizers and/or pesticides, oil from parking areas) can be filtered out and, therefore, the Project will not contribute a substantial number of additional pollutants to runoff.

END OF APPENDIX I