MEMORANDUM

TO: Members of the Governing Board  
Southwestern Community College District

APPROVED BY: Denise Whittaker  
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple  
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.  
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Rocky Coast Framers, Inc.  
Chemistry Lab Building 330 Remodel Project

RECOMMENDATION

Recommend Ratification of Agreement No. A3054.10, related to Bid No. 163, with Rocky Coast Framers, Inc., for the installation of roofing and ceiling systems, for the period May 12, 2010 to August 10, 2010, inclusive, in an amount not to exceed $151,392.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of Bid No. 163 on May 12, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Rocky Coast Framers, Inc. for Bid No. 163 Package 2 Carpentry, Roofing and Ceiling furnished all equipment, materials and labor necessary for the complete installation of carpentry, roofing and ceiling systems for the Chemistry Lab Building 330 Remodel project. Rocky Coast Framers, Inc. has relevant project experience in similar size, scope, and complexity. This project was funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $151,392 Cost to the District/Account No.:  
0-46210-718621-000 (Building 330 - Proposition AA Funds)

JRB:mk
THIS AGREEMENT, made this 13th day of May in the County of San Diego, State of California, by and between the Southwestern Community College District, hereinafter called the District, and Rocky Coast Framers, Inc., hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: BID No. 163 Building 330 - HVAC Replacement Bld Package 2 - Carpenter, Roofing and Ceiling in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on the date stated in the District's notice to proceed, as provided in Section A of the Special Conditions. As specified in District's notice to proceed, the work shall be completed within SEVENTY (70) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of ONE HUNDRED FIFTY ONE THOUSAND THREE HUNDRED NINETY TWO AND 00/100 Dollars ($151,392.00), said sum being the total amount of the following amounts stipulated in the bid:

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

Notice to Contractors Calling for Bids
Information for Bidders
Bid, as accepted
Designation of Subcontractors
Non-collusion Affidavit
Agreement
Performance Bond
Payment Bond for Public Works
Contractor's Certificate Regarding Workers' Compensation
General Conditions and Special Conditions
Specification Addenda Nos. 1, 2, 3 and 4, as issued
Drawings
Labor Compliance Program
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR:
ROCKY COAST FRAMERS, INC.
License No. 476999 - 745061

By ____________________________

Its Vice President

DISTRICT:
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By Raj K. Chopra, Ph.D / / 8-4-10

Its Superintendent/President

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No.: A305410
Date: 7-26-10

(Corporate Seal)

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento CA 95827
(916)255-3900; http://www2.cscb.ca.gov/
(Business & Professions Code, section 7030)
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

May 12, 2010

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
               Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
               Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
               Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Bid No. 162, 163, 164, and 165 for the Chemistry
         Building 330 Heating, Ventilation and Air Conditioning (HVAC)
         Replacement Project

RECOMMENDATION

Recommend award of Bid No. 162 Package 1 Demolition and Abatement; Bid No. 163 Package
2 Carpentry, Roofing and Ceiling; Bid No. 164 Package 3 HVAC and Plumbing; and Bid
No. 165 Package 4 Electrical, to provide construction services for the Chemistry Building 330
HVAC; and further recommend the Superintendent/President be authorized to sign the
agreements and any future amendments that occur:

- Casper Company for Bid No. 162 Package 1 Demolition and Abatement
  To furnish all equipment, materials and labor necessary to successfully complete abatement
  and demolition construction services, in an amount not to exceed $39,855.

- Rocky Coast Framers, Inc. for Bid No. 163 Package 2 Carpentry, Roofing and Ceiling
  To furnish all equipment, materials and labor necessary for the complete installation of
carpentry, roofing and ceiling systems, in an amount not to exceed $151,392.

- Countywide Mechanical Systems for Bid No. 164 Package 3 HVAC and Plumbing
  To furnish all equipment, materials and labor necessary for the complete installation of
HVAC and plumbing units, in an amount not to exceed $294,600.

- R.L. Electric, Inc. for Bid No. 165 Package 4 Electrical
  To furnish all equipment, materials and labor necessary for the complete installation of
electrical systems, in an amount not to exceed $77,700.
OVERVIEW

The chemistry building 330 ventilation system was reviewed and tested for air quality and capacity in the fall of 2009. It was determined that the system does not meet the current air exchange standards and will require an upgrade. The HVAC units will also need to be replaced. The District solicited services from qualified trade contractors to perform the required work.

On April 26th, 2010, the District received a total of ten trade contractor bids for the referenced project, and based on the bids received; the above trades were the apparent low bidders and are being recommended for award to provide construction services. These services will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $563,547 cost to the District/Account No.0-46210-718621-000 (Building 330 - Proposition AA Funds)

HA:es
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of Bid

Governing Board Meeting Date: May 12, 2010
Recommend Award of Bid No. 163

Title of Bid: Recommend Award of Bid No. 163 – Chemistry Building 330 HVAC Replacement; Bid Package 2 - Carpentry, Roofing, Ceiling

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Rocky Coast Framers, Inc.*</td>
<td>$151,392</td>
</tr>
</tbody>
</table>

- Bold text indicates recommended awarding firm.

Rejected Bids:

Advanced Systems

Advanced Systems' bid was returned/rejected because they failed to turn in their bid by the date and time stipulated in the bid documents.

* Rocky Coast Framers, Inc. was the only bidder, however their bid to perform the work for Bid Package No. 2 is within the cost estimate of $150,000, which was conducted by the Construction Manager, Echo Pacific, Inc.

Henry Amigable, CCM
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Countrywide Mechanical Systems, Inc.
Chemistry Lab Building 330 Remodel Project

RECOMMENDATION

Recommend Ratification of Agreement No. A2955.10, related to Bid No. 164, with Countrywide Mechanical Systems, Inc., for the installation of heating, ventilating, air conditioning and plumbing systems, for the period May 12, 2010 to August 10, 2010, inclusive, in an amount not to exceed $294,600.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent / President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of Bid No. 164 on May 12, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Countrywide Mechanical Systems, Inc. for Bid No. 164 Package 3 HVAC and Plumbing furnished all equipment, materials and labor necessary for the complete installation of HVAC and plumbing units for the Chemistry Lab Building 330 Remodel project. Countrywide Mechanical Systems, Inc. has relevant project experience in similar size, scope, and complexity. This project was funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $294,600 Cost to the District/Account No.: 0-46210-718621-000 (Building 330 - Proposition AA Funds)

JRB:mk
DOCUMENT 00500
AGREEMENT

THIS AGREEMENT, made this 13th day of May in the County of San Diego, State of California, by and between the Southwestern Community College District, hereinafter called the District, and Countywide Mechanical Systems, Inc., hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: BID No. 164 Building 330 - HVAC Replacement Bid Package 3 - HVAC and Plumbing in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on the date stated in the District’s notice to proceed, as provided in Section A of the Special Conditions. As specified in District’s notice to proceed, the work shall be completed within SEVENTY (70) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of TWO HUNDRED NINETY FOUR THOUSAND SIX HUNDRED AND 00/100 Dollars ($294,600.00), said sum being the total amount of the following amounts stipulated in the bid:

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

Notice to Contractors Calling for Bids
Information for Bidders
Bid, as accepted
Designation of Subcontractors
Non-collusion Affidavit
Agreement
Performance Bond
Payment Bond for Public Works
Contractor’s Certificate Regarding Workers’ Compensation
General Conditions and Special Conditions
Specification Addenda Nos. 1, 2, 3 and 4, as issued
Drawings
Labor Compliance Program
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR:
COUNTYWIDE MECHANICAL SYSTEMS, INC.
License No: 748569

By ________________________________
Its President

DISTRICT:
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By Raj K. Chopra, Ph.D
Raj K. Chopra, Ph.D
Its Superintendent/ President

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No: A3055.10
Date: 5/4/10

(Corporate Seal)

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento CA 95827
(916)255-3900; http://www2.cscb.ca.gov/
(Business & Professions Code, section 7030)

AGREEMENT 2 OF 2
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
    Superintendent/President

SUBMITTED BY: Nicholas C.A. Alicto, CPA
    Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
    Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Bid No. 162, 163, 164, and 165 for the Chemistry Building 330 Heating, Ventilation and Air Conditioning (HVAC) Replacement Project

RECOMMENDATION

Recommend award of Bid No. 162 Package 1 Demolition and Abatement; Bid No. 163 Package 2 Carpentry, Roofing and Ceiling; Bid No. 164 Package 3 HVAC and Plumbing; and Bid No. 165 Package 4 Electrical, to provide construction services for the Chemistry Building 330 HVAC; and further recommend the Superintendent/President be authorized to sign the agreements and any future amendments that occur:

- Casper Company for Bid No. 162 Package 1 Demolition and Abatement
  To furnish all equipment, materials and labor necessary to successfully complete abatement and demolition construction services, in an amount not to exceed $39,855.

- Rocky Coast Framers, Inc. for Bid No. 163 Package 2 Carpentry, Roofing and Ceiling
  To furnish all equipment, materials and labor necessary for the complete installation of carpentry, roofing and ceiling systems, in an amount not to exceed $151,392.

- Countywide Mechanical Systems for Bid No. 164 Package 3 HVAC and Plumbing
  To furnish all equipment, materials and labor necessary for the complete installation of HVAC and plumbing units, in an amount not to exceed $294,600.

- R.L. Electric, Inc. for Bid No. 165 Package 4 Electrical
  To furnish all equipment, materials and labor necessary for the complete installation of electrical systems, in an amount not to exceed $77,700.
OVERVIEW

The chemistry building 330 ventilation system was reviewed and tested for air quality and capacity in the fall of 2009. It was determined that the system does not meet the current air exchange standards and will require an upgrade. The HVAC units will also need to be replaced. The District solicited services from qualified trade contractors to perform the required work.

On April 25th, 2010, the District received a total of ten trade contractor bids for the referenced project, and based on the bids received; the above trades were the apparent low bidders and are being recommended for award to provide construction services. These services will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $563,547 cost to the District/Account No.0-66210-718621-000 (Building 330 - Proposition AA Funds)

HA:2s
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of Bid

Governing Board Meeting Date: May 12, 2010
Recommend Award of Bid No. 164

Title of Bid:  Recommend Award of Bid No. 164 – Chemistry Building 330 HVAC Replacement; Bid Package 3 - HVAC and Plumbing

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Cost</th>
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</thead>
<tbody>
<tr>
<td>Countywide Mechanical Systems</td>
<td>$294,600</td>
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<tr>
<td>Able Heating and Air Conditioning, Inc.</td>
<td>$312,000</td>
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<tr>
<td>Lemon Grove Sheet Metal Works, Inc.</td>
<td>$363,000</td>
</tr>
<tr>
<td>Alpha Mechanical Heating &amp; AC</td>
<td>$435,900</td>
</tr>
</tbody>
</table>

- Bold text indicates recommended awarding firm.

Rejected Bids:

| Certified Air Conditioning, Inc.                 |           |

Certified Air Conditioning, Inc.'s bid was returned/rejected because they failed to turn in their bid by the date and time stipulated in the bid documents.

Henry Aguilar, CCM
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities/Operations, and Planning

SUBJECT: Ratification of Agreement with R.L. Electric, Inc.
Chemistry Lab Building 330 Remodel Project

RECOMMENDATION

Recommend Ratification of Agreement No. A2952.10, related to Bid No. 165, with R.L. Electric, Inc., for the installation of electrical systems, for the period May 12, 2010 to August 10, 2011, inclusive, in an amount not to exceed $77,700.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of Bid No. 165 on May 12, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with R.L. Electric, Inc. for Bid No. 165 Package 4 Electrical furnished all equipment, materials and labor necessary for the complete installation of electrical systems for the Chemistry Lab Building 330 Remodel project. R.L. Electric, Inc. has relevant project experience in similar size, scope, and complexity. This project was funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $77,700 Cost to the District/Account No.:
0-46210-718621-000 (Building 330 - Proposition AA Funds)

JRB:mk
THIS AGREEMENT, made this 13th day of May in the County of San Diego, State of California, by and between the Southwestern Community College District, hereinafter called the District, and R.L Electric, Inc., hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: BID No. 165 Building 330 – HVAC Replacement Bid Package 4 – Electrical in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on the date stated in the District's notice to proceed, as provided in Section A of the Special Conditions. As specified in District's notice to proceed, the work shall be completed within SEVENTY (70) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of SEVENTY SEVEN THOUSAND SEVEN HUNDRED AND 00/100 Dollars ($77,700.00), said sum being the total amount of the following amounts stipulated in the bid:

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

- Notice to Contractors Calling for Bids
- Information for Bidders
- Bid, as accepted
- Designation of Subcontractors
- Non-collusion Affidavit
- Agreement
- Performance Bond
- Payment Bond for Public Works
- Contractor's Certificate Regarding Workers' Compensation
- General Conditions and Special Conditions
- Specification Addenda Nos. 1, 2, 3 and 4, as issued
- Drawings
- Labor Compliance Program
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR:
R. L ELECTRIC, INC.
License No. 859401

By

Its President

DISTRICT:
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By
Raj K. Chopra, Ph.D
8-4-10

Its Superintendent/ President

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No: A395210
Date: 2/6/10

(Corporate Seal)

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9321 Business Park Drive
Sacramento CA 95827
(916)255-3900; http://www2.cscb.ca.gov/
(Business & Professions Code, section 7030)

AGREEMENT 2 OF 2
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Armigeble, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Bid No. 162, 163, 164, and 165 for the Chemistry Building 330 Heating, Ventilation and Air Conditioning (HVAC) Replacement Project

RECOMMENDATION

Recommend award of Bid No. 162 Package 1 Demolition and Abatement; Bid No. 163 Package 2 Carpentry, Roofing and Ceiling; Bid No. 164 Package 3 HVAC and Plumbing; and Bid No. 165 Package 4 Electrical, to provide construction services for the Chemistry Building 330 HVAC; and further recommend the Superintendent/President be authorized to sign the agreements and any future amendments that occur:

- Casper Company for Bid No. 162 Package 1 Demolition and Abatement
  To furnish all equipment, materials and labor necessary to successfully complete abatement and demolition construction services, in an amount not to exceed $39,855.

- Rocky Coast Framers, Inc. for Bid No. 163 Package 2 Carpentry, Roofing and Ceiling
  To furnish all equipment, materials and labor necessary for the complete installation of carpentry, roofing and ceiling systems, in an amount not to exceed $151,392.

- Countywide Mechanical Systems for Bid No. 164 Package 3 HVAC and Plumbing
  To furnish all equipment, materials and labor necessary for the complete installation of HVAC and plumbing units, in an amount not to exceed $294,600.

- R.L. Electric, Inc. for Bid No. 165 Package 4 Electrical
  To furnish all equipment, materials and labor necessary for the complete installation of electrical systems, in an amount not to exceed $77,700.
OVERVIEW

The chemistry building 330 ventilation system was reviewed and tested for air quality and capacity in the fall of 2009. It was determined that the system does not meet the current air exchange standards and will require an upgrade. The HVAC units will also need to be replaced. The District solicited services from qualified trade contractors to perform the required work.

On April 26th, 2010, the District received a total of ten trade contractor bids for the referenced project, and based on the bids received; the above trades were the apparent low bidders and are being recommended for award to provide construction services. These services will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $563,547 cost to the District/Account No. 0-46210-718621-000 (Building 330 - Proposition AA Funds)

HA:as
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of Bid

Governing Board Meeting Date: May 12, 2010
Recommend Award of Bid No. 165

Title of Bid: Recommend Award of Bid No. 165 – Chemistry Building 330 HVAC Replacement; Bid Package 4 - Electrical

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Cost</th>
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</thead>
<tbody>
<tr>
<td>R.L. Electric, Inc.</td>
<td>$77,700</td>
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<tr>
<td>La Jolla Electric Inc.</td>
<td>$97,600</td>
</tr>
</tbody>
</table>

- Bold text indicates recommended awarding firm.

Rejected Bids:

Henry Affigable, CCM
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Chambers, Inc., dba Roof Construction
Roofing Upgrades Project

RECOMMENDATION

Recommend Ratification of Agreement No. A2990.10, related to Bid No. 160, with Chambers Inc., dba Roof Construction, for construction services, for the period May 12 to August 13, 2010, inclusive, in an amount not to exceed $463,183.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent / President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved Bid No. 160 on May 12, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Chambers, Inc., dba Roof Construction furnished all equipment, materials and labor necessary for general construction services for the Roofing Upgrades project. Chambers, Inc., dba Roof Construction has relevant project experience in similar size, scope, and complexity. This project was funded by Proposition AA.
FISCAL IMPACT/ACCOUNT

NTE $463,183 Cost to the District/Account No.:
0-46210-718632-000 (Building 550 - Proposition AA Funds)
0-46210-718628-000 (Building 440 - Proposition AA Funds)
0-46210-718618-000 (Building 220 - Proposition AA Funds)
0-46210-718617-000 (Building 210 - Proposition AA Funds)
0-46210-718625-000 (Building 410 - Proposition AA Funds)
0-46210-718651-000 (Building 450 - Proposition AA Funds)

JRB:mk
THIS AGREEMENT, made this 12th day of May, 2010 in the County of San Diego, State of California, by and between the SOUTHWESTERN COMMUNITY COLLEGE DISTRICT, hereinafter called the District, and CHAMBERS INC. (dba ROOF CONSTRUCTION), hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: Southwestern College - Roofing Repairs to Various Buildings and Walkways in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on the date stated in the District's notice to proceed, as provided in Section A of the Special Conditions. As specified in District's notice to proceed, the work shall be completed within EIGHTY (80) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of FOUR HUNDRED SIXTY THREE THOUSAND ONE HUNDRED EIGHTY THREE DOLLARS ($463,183.00), said sum being the total amount of the following amounts stipulated in the bid:

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

Notice to Contractors Calling for Bids
Information for Bidders
Bid, as accepted
Designation of Subcontractors
Non-collusion Affidavit
Agreement
Performance Bond
Payment Bond for Public Works
Contractor's Certificate Regarding Workers' Compensation
General Conditions and Special Conditions
Specifications
Addenda Nos. 1 and 2, as issued
Drawings
Labor Compliance Program (if applicable)
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR:

CHAMBERS INC. (ROOF CONSTRUCTION)
License No. 647203

By ________________________________
Row Chambers

Its ________________________________
President

DISTRICT:

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By ________________________________
Raj K. Chopra, Ph.D.

Its ________________________________
Superintendent/President

Approved as to form by the office of the Purchasing, Contracting, & Central Services Director

Approval No.: A2970.10
Date: 5/8/2010

(Corporate Seal)

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento CA 95827
(916) 255-3900; http://www2.cscb.ca.gov/
(Business & Professions Code, section 7030)
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Bid No. 160 Roofing Repairs to Various Buildings and Walkways.

RECOMMENDATION

Recommend award of Bid No. 160 Roofing Repairs to Various Buildings and Walkways to Roof Construction to provide construction services, and further recommend the Superintendent/President be authorized to sign the agreements and any future amendments that occur:

• Roof Construction
  To furnish all equipment, materials and labor necessary for the complete installation of roofing systems and repair walkways, in an amount not to exceed $463,183.

OVERVIEW

During a review of the campus roofs, it was determined that the existing conditions of buildings 440, 200, and 550 will require the replacement of the existing roof systems. Additionally, the walkways around buildings 210, 450, 410, and 550, will need repairs due to deterioration.

On April 9th, 2010, the District received a total of six roofing contractor bids for the referenced project, and based on the bids received; Roof Construction was the low bidder and is being recommended for award to provide construction services. This will be funded by Proposition AA.
FISCAL IMPACT/ACCOUNT

NTE 3,463,183 cost to the District/Account No.:
0-46210-715617-000 (Building 210 - Proposition AA Funds)
0-46210-715618-000 (Building 220 - Proposition AA Funds)
0-46210-715625-000 (Building 410 - Proposition AA Funds)
0-46210-715628-000 (Building 440 - Proposition AA Funds)
0-46210-715632-000 (Building 550 - Proposition AA Funds)
0-46210-715651-000 (Building 450 - Proposition AA Funds)

HA: as
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of Bid

Governing Board Meeting Date: May 12, 2010

Recommend Award of Bid No. 160

Title of Bid: Bid No. 160 Roofing Repairs to Various Buildings and Walkways

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Base Bid</th>
</tr>
</thead>
<tbody>
<tr>
<td>J.P. Withrow Roofing Co.</td>
<td>$489,475</td>
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<tr>
<td>Premier Roofing</td>
<td>$504,921</td>
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<tr>
<td>Commercial &amp; Industrial Roofing Co.</td>
<td>$511,156</td>
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<tr>
<td>A Good Roofer, Inc.</td>
<td>$766,000</td>
</tr>
<tr>
<td>Webco Construction</td>
<td>$897,860</td>
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</tbody>
</table>

- Bold text indicates recommended awarding firm.

Rejected Bids:

None.

Henry Ashigable, CCM
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Winzler and Kelly
Various Proposition AA Projects

RECOMMENDATION

Recommend Ratification of Agreement No. A2972.10, related to RFQ 113, with Winzler and Kelley, for environmental testing and consulting services during hazardous material abatement, for the period May 12, 2010 to December 31, 2011, inclusive, in an amount not to exceed $87,744.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent / President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFQ 113 on May 12, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Winzler and Kelley provided professional environmental testing and consulting services during hazardous materials abatement for eight various Proposition AA
projects. Winzler and Kelly has relevant project experience in similar size, scope, and complexity. This project was funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $87,744 Cost to the District/Account No.:
0-45110-718618-000 (Building 220 - Proposition AA Funds)
0-45110-718621-000 (Chemistry Lab Building 330 Remodel - Proposition AA Funds)
0-45110-718628-000 (Building 440 - Proposition AA Funds)
0-45110-718632-000 (Building 550 - Proposition AA Funds)
0-45110-718633-000 (Building 560 - Proposition AA Funds)
0-45110-718641-000 (Campus Lighting Upgrades – Proposition AA Funds)
0-45110-718642-000 (Gotham Road Widening – Proposition AA Funds)
0-45110-718646-000 (Building 570 – Proposition AA Funds)
0-45110-718647-000 (Building 480 Food Services/Café – Proposition AA Funds)
0-45110-718648-000 (Building 510 – Proposition AA Funds)

JRB:mk
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
INDEPENDENT CONTRACTOR AGREEMENT No. ______

WHEREAS, it is the desire of the Governing Board of the Southwestern Community College District (hereinafter referred to as “District” or “Client”) to contract with Witzler and Kelly as an Independent Contractor (hereinafter referred to as “Contractor” or “Engineer”); and whereas such service will assist the Governing Board in discharging its legal obligation to provide an adequate educational program; and whereas Government Code section 53060 authorizes the Governing Board to enter into contracts to obtain special services and advice in financial, economic, accounting, engineering, legal or administrative matters for the District; and

WHEREAS, Contractor has represented to the Governing Board that Contractor is knowledgeable and qualified in skills required for this project and covenants that Contractor is capable of performing the services required under this agreement; and

WHEREAS, the Governing Board recognizes that Contractor is acting as an independent contractor in the performance of work under this contract, and that Contractor to the extent required by law shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of work under this contract; and

WHEREAS, Contractor understands that, for purposes of this Agreement, Contractor is not an employee of the District and does not qualify for employee benefits, including workers’ compensation benefits;

NOW THEREFORE, the following is agreed:

I. SERVICES AND WORK PRODUCT(S) TO BE RENDERED BY THE INDEPENDENT CONTRACTOR.

a. Contractor agrees to undertake, carry out and complete for the Governing Board, in a satisfactory and competent manner, the following services:

b. Perform a hazardous material survey, technical specification design, abatement oversight, environmental and clearance sampling and associated project management during the course abatement activities at buildings 570, 510, 550, 560, 330, 480, 440, 220, and various walkway overhangs.

c. Provide closeout reports at the conclusion of all abatement activities, recording all means and methods employed, dates of work, and a summery of all sampling data collected prior to, during abatement, and upon completion of abatement activities for buildings 570, 510, 550, 560, 330, 480, 440, 220, and various walkway overhangs.

II. COMPENSATION, MAXIMUM COST, AND PAYMENT.

a. In consideration of the service to be rendered by Contractor as outlined in this agreement, the Governing Board agrees to pay Contractor a total amount not to exceed EIGHTY SEVEN THOUSAND SEVEN HUNDRED FORTY FOUR 00/100 DOLLARS (587,744.00) per proposal dated April 16, 2010 as identified in Exhibit "A".


b. Invoice shall be processed within thirty (30) days upon receipt and approval by Southwestern Community College District of an invoice, in triplicate, showing services rendered for the period covered by the invoice.

c. All invoices submitted must contain the following certification statement: “I certify that payment requested is for appropriate purposes and in accordance with the provisions of the Contract.” All invoices must be signed by Contractor’s Chief Financial Officer or designee.

d. Contractor certifies that Contractor has not and will not receive pay for the same services or days of service by any other public agency.

e. District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing services for District, unless otherwise specifically stated in this Contract.

III. PERIOD OF PERFORMANCE.

This period covered by this agreement shall begin on May 13, 2010 and shall terminate on December 31, 2011.

IV. CONFLICT OF INTEREST.

If the District determines that Contractor is a “Consultant” under Political Reform Act of 1974, Contractor shall comply with all applicable Conflict of Interest laws, including the filing of a Statement of Economic Interest, pursuant to the District’s Conflict Code, under a disclosure category or categories as determined by the District’s Superintendent/President.

V. INDEPENDENT CONTRACTOR.

Contractor, in the performance of this Contract, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District’s employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker’s Compensation. Contractor assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the service to be provided under this Contract.

VI. TAXES.

Contractor acknowledges and agrees that it is the sole responsibility of Contractor to report as income its compensation received from District and to make the requisite tax filings and payments to the appropriate federal, state or local tax authority. No part of Contractor’s compensation shall be subject to withholding by District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.

VII. MATERIALS.

Contractor shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Contract unless otherwise specifically stated in the Contract. Contractor’s services will be performed, findings
obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession.

VIII. AUDIT AND INSPECTION OF RECORDS.

At any time during the normal business hours and as often as District may deem necessary, Contractor shall make available to District for examination at District's place of business as specified herein, all data, records, investigation reports and all other materials respecting matters covered by this Contract and Contractor will permit the District to audit, and to make audits of all invoices, materials, payrolls, records of personnel and other data related to all matters covered by this Contract.

IX. CONFIDENTIALITY AND USE OF INFORMATION.

a. Contractor shall hold in trust for the District, and shall not disclose to any person, any confidential information. Confidential information is information which is related to the District's research, development, trade secrets and business affairs; but does not include information which is generally known or easily ascertainable by nonparties through available public documentation.

b. Contractor shall advise the District of any and all materials used, or recommended for use by consultant to achieve the project goals, that are subject to any copyright restrictions or requirements. In the event Contractor shall fail to so advise the District and as a result of the use of any programs or materials developed by Contractor under this Contract the District should be found in violation of any copyright restrictions or requirements, or the District should be alleged to be in violation of any copyright restrictions or requirements, Contractor agrees to indemnify, defend and hold harmless, District against any action or claim brought by the copyright holder.

X. EQUAL OPPORTUNITY/NON-DISCRIMINATION.

Contractor shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, disability, medical condition, or marital status.

Contractor shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin. Contractor shall comply with the Americans with Disabilities Act and the Rehabilitation Act of 1973, as amended.

XI. HOLD HARMLESS.

Contractor agrees to indemnify, but shall have no obligations to defend the District, its officers and employees from liability for damages to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies to the extent actually caused by with the negligent performance of this Contract, and liability for damages accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the Contractor to the extent actually caused by the negligent performance of this Contract. The District agrees to indemnify, defend and hold
harmless Contractor from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts of omissions of the District in the negligent performance of this Contract.

XII. TERMINATION.

The District or the Contractor may, at any time, with or without reason, terminate this Contract upon the giving of thirty (30) days prior written notice to the other party. In the event of termination, the Contractor shall be entitled to payment only for acceptable and allowable work performed under this Contract through the date of termination. Written notice by the District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or not later than five (5) days after the day of mailing, whichever is sooner.

District may also terminate this Contract upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this Contract by the Contractor; (b) any act by Contractor exposing the District to liability to others for personal injury or property damage; or (c) if Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor’s insolvency. Written notice by District of termination for cause shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the District may secure the required services from another contractor. If the cost to the District of obtaining the services from another contractor exceeds the cost of providing the service pursuant to this Contract, the excess cost shall be charged to and collected from the Contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District. Written notice by District shall be deemed given when received by the other party, or no later than five (5) days after the day of mailing, whichever is sooner.

XIII. INSURANCE

Contractor agrees to carry a comprehensive or commercial general liability insurance with limits of one-million dollars ($1,000,000) per occurrence and $2,000,000 aggregate combined single limit for bodily injury and property damage in a form mutually acceptable to both parties to protect Contractor and District against liability or claims of liability which may arise out of this Contract. In addition, Contractor agrees to provide an endorsement to this policy stating, “Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory.” Prior to commencing the performance of services hereunder, Contractor shall provide District with certificates of insurance evidencing all coverages and endorsements required hereunder including a thirty (30) day written notice of cancellation or reduction in coverage. Contractor agrees to name District and its officers, agents and employees as additional insureds under said policy.

XIV. WORKER’S COMPENSATION INSURANCE.
Contractor agrees to procure and maintain in full force and effect Worker's Compensation Insurance covering its employees and agents while these persons are participating in the activities hereunder. In the event a claim under the provisions of the California Workers' Compensation Act is filed against District by a bona fide employee of Contractor participating under this Contract, Contractor agrees to defend and hold harmless the District from such claim.

XV. ORIGINALITY.

Contractor agrees that all material produced by the Contractor and delivered to Southwestern Community College District hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless the Governing Board from any costs, expenses and damages resulting from any breach of this representation.

XVI. WORKS FOR HIRE.

Contractor understands and agrees that all matters produced under this Contract shall be works for hire and shall become the sole property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.

Contractor consents to use of Contractor name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

XVII. RIGHTS IN DATA.

Contractor grants to the Governing Board the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this Contract.

XVIII. COMPLIANCE WITH APPLICABLE LAWS.

The service completed herein must meet the approval of the District and shall be subject to the District's general right of inspection to secure the satisfactory completion thereof. Contractor agrees to comply with all federal, state and local laws, rules, regulations, and ordinances that are now or may in the future become applicable to Contractor, Contractor's business, equipment and personnel engaged in operations covered by this Contract or accruing out of the performance of such operations.

XIX. PERMITS/LICENSES.

Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Contract.

XX. NON-WAIVER.
The failure of District or Contractor to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Contract shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

XXI. SEVERABILITY.

If any term, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

XXII. ASSIGNMENT.

This Contract is not assignable by Contractor either in whole or in part, nor shall the Contractor further contract for the performance of any of its obligations hereunder, without the prior written consent of the Governing Board.

XXIII. LAWS GOVERNING.

This Contract shall be governed by and construed in accordance with the laws of the State of California.

XXIV. ENTIRE AGREEMENT/MODIFICATION.

This Contract and the Attachments hereto contain the entire agreement of the parties, and no representation, provision, warranty, term, condition, promise, duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Contract shall be binding or enforceable unless in writing and signed by each of the parties.

XXV. NOTICES.

All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if personally served or if sent by registered mail addressed to the parties at their address indicated in this Contract.
This Contract is entered into this 12th day of May, 2010.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date thereof.

WINZLER AND KELLY

Name: Winzler and Kelly
SS#/Federal Tax ID: 68-0274914
Address: 4180 Ruffin Road, Suite 115
City/State/Zip: San Diego, CA 92123
Telephone: 858-244-0440
Fax: 858-244-0441

Are you a District employee? ☐ Yes ☑ No

Signature:

Date: 7/6/10

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

Raj K. Chopra, Ph.D.
Superintendent/President
900 Otay Lakes Road
Chula Vista, CA 91910-7299
Telephone: 619 482-6301
Fax: 619 482-6413
Signature: [Signature]
Date: 6/13/10

Originator: Nicholas Alioto, Vice President for Business & Financial Affairs

Account No.:
0-45110-718618-000 (Building 220 - Proposition AA Funds)
0-45110-718621-000 (Building 330 - Proposition AA Funds)
0-45110-718628-000 (Building 440 - Proposition AA Funds)
0-45110-718632-000 (Building 550 - Proposition AA Funds)
0-45110-718633-000 (Building 560 - Proposition AA Funds)
0-45110-718640-000 (Building 570 - Proposition AA Funds)
0-45110-718647-000 (Building 480 Food Services/Café - Proposition AA Funds)
0-45110-718648-000 (Building 510 - Proposition AA Funds)

Approved as to form by the office of the
Purchasing, Contracting & Central Services
Director
Approval No.: A2922.10
Date: 6/13/10
April 16, 2010

Southwestern Community College District
800 Otay Lakes Road, Building 1681
Chula Vista, California 91910

Chula Vista, California 91910

Winzler & Kelly (W&K) is pleased to present this proposal in response to your recent request. We understand Southwestern Community College District (SWCCD) is requiring a hazardous materials (asbestos, lead based paint, and universal waste components) survey, technical specification design, air monitoring, contractor observation, and clearance sampling services during hazardous materials abatement to be performed at the Chemistry Lab (Bldg. 330), Building 550 and 560 (rooms 554A, 554ALab, 554B, 560II, 560J, 560K and 560L), Roofs of Buildings 220, 440, 550 and associated Overhangs, Building 570, Building 510, and Building 480 at Southwestern College, Chula Vista, California (the "Site"). It is understood by W&K that the estimated project start date for the survey will May 13, 2010, the estimated project start date for abatement at the Site is to be determined, and the estimated project duration for abatement will be forty-one shifts.

W&K will perform a hazardous materials survey, technical specification design, abatement oversight, environmental and clearance sampling and analysis, and associated project management during the course of abatement activities. W&K will also provide a closeout report at the conclusion of all abatement activities, recording all means and methods employed, dates of work, and a summary of all sampling data collected prior to, during abatement, and upon completion of abatement activities.

**BASIC SERVICES**

W&K will provide all necessary environmental testing and consulting services to assist in the successful completion of the subject project, including the following:


A. Conduct hazardous materials surveys to include sampling and analysis for asbestos-containing materials and lead-based paint. Asbestos sample analysis will be conducted utilizing Polarized Light microscopy (PLM). Lead-based paint sample analysis will be conducted utilizing an X-ray fluorescence (XRF) spectrum analyzer.

B. Quantify universal waste components such as: potential mercury containing switches, thermometers and light tubes, potential low level radiation components (Americium 241) in smoke
detectors and Tritium in exit signs), potential PCB-containing light ballast and transformers and ozone depleting substances (Chlorofluorocarbons) in water coolers, refrigerators and air conditioning units. No analytical analysis will be conducted, only visual inspection and quantification.

C. Design hazardous component abatement specifications (asbestos, lead and universal waste components) to remove hazardous materials which may be impacted during renovation or demolition.

D. During abatement W&K’s Project Staff will check the integrity of the abatement contractor’s engineering controls prior to commencing hazardous material related work. This shall include inspecting containment structures, determining that proper decontamination units are established and utilized, and that proper engineering controls, such as negative pressure enclosures, are established and properly utilized.

E. Perform project management consulting services during abatement activities, including contractor observation of field activities, review of progress submittals, management (but not signing) of hazardous waste manifests, and attending construction meetings.

F. Perform quality assurance and contractor surveillance during hazardous component abatement activities to ensure compliance with all applicable regulations. W&K’s Project Staff will also conduct environmental air and dust monitoring during asbestos and lead-related work. All asbestos-related environmental air monitoring conducted prior to and during the course of the abatement activities will be performed and analyzed utilizing a phase-contrast microscope (PCM) in accordance with National Institute for Occupational Safety and Health (NIOSH) Method 7400. All lead-related environmental air and dust wipe monitoring conducted prior to and during the course of lead-removal activities will be performed and analyzed in accordance with NIOSH Method 7082 and the United States Environmental Protection Agency (USEPA) Method 3050/7420, respectively.

G. Conduct visual inspections for work acceptance following abatement activities to ensure that no asbestos-containing materials, lead-based paint or any other hazardous component, that are slated for removal, remain within the contained work area once construction is completed, and to ensure that decontamination of the work area has been successfully completed prior to clearance sampling.

H. Conduct post-abatement clearance sampling following asbestos abatement and lead removal activities. Asbestos clearance air samples shall be collected and analyzed utilizing PCM in accordance with NIOSH Method 7400. Lead clearance dust-wipe samples shall be collected in accordance with Federal and State requirements and analyzed using USEPA Method 3050/7420.

I. Prepare a closeout report documenting the scope of work, progress, and successful completion of
the project. All W&K field documentation and laboratory reports, as well as the contractor’s personal exposure air monitoring records, government agency notifications, applicable licenses, certifications and completed waste manifests, will be included in this report.

ADDITIONAL SERVICES

- Additional consulting services for can be performed at your request and a separate proposal will be generated with the specific scope of work and fee.

INFORMATION AND SERVICES TO BE PROVIDED BY CLIENT

W&K understands that the client will provide building floor plans and access to the Site.

EXCLUDED SERVICE

The work area is limited to the Site at Southwestern College and only includes services described in Basic Services. Additional services can be provided for an additional fee.

SCHEDULE

W&K understands that the start date for the survey will begin May 13, 2010 and the start date for the abatement is to be determined.

COMPENSATION

<table>
<thead>
<tr>
<th>Building 330 (Chemistry Lab)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Item</td>
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<tr>
<td>Environmental Principal</td>
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<tr>
<td>Project Management</td>
</tr>
<tr>
<td>Project Coordinator</td>
</tr>
<tr>
<td>Hazardous Material Survey</td>
</tr>
<tr>
<td>Project Staff - 5, 8-hr shifts)</td>
</tr>
<tr>
<td>Report Preparation (Survey)</td>
</tr>
<tr>
<td>Specification Design</td>
</tr>
<tr>
<td>Closeout Document (Post abatement)</td>
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<tr>
<td>Data Processing (Project Staff)</td>
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<td>Reproduction (Project Staff)</td>
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<tr>
<td>Asbestos Sample Analysis (PLM)</td>
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<td>PCM Analysis</td>
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<td>Lead Wipe Sample Analysis</td>
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<tr>
<td>Field Consumables</td>
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<tr>
<td>Office consumables</td>
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<td>Vehicle Mileage (60 mi/day x 18 days)</td>
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<td>Estimated Project Total</td>
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Building 550 and 560 (Rooms 554A, 554ALab, 554B, 560H, 560J, 560K and 560L)

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<tr>
<th>Item</th>
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<tbody>
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<td>Project Management</td>
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<td>4 hours @ $90/hr</td>
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<td>Hazardous Material Survey (Project Staff - 2, 8-hr shifts)</td>
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<td>$1,050.00</td>
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<td>Abatement Oversight (Project Staff - 5, 8-hr shifts)</td>
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<td>Report Preparation (Survey)</td>
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<td>Specification Design</td>
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<td>Close out Document (Post abatement)</td>
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<td>Reproduction (Project Staff)</td>
<td>2 hours @ $70/hr</td>
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<td>31 samples @ $8.50/sample</td>
<td>$263.00</td>
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<tr>
<td>PCM Analysis</td>
<td>32 samples @ $5/sample</td>
<td>$160.00</td>
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<tr>
<td>Lead Wipes Sample Analysis</td>
<td>4 samples @ $10/sample</td>
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<td>Field Consumables</td>
<td>47 hours @ $11/hr</td>
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<td>Office consumables</td>
<td>22 hours @ $6/hr</td>
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<td>Vehicle Mileage (60 mi/day x 5 days)</td>
<td>302 miles @ $0.63/mi.</td>
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Roofs of 220, 440, 550 and associated Overhangs

<table>
<thead>
<tr>
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</tr>
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<tbody>
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<td>Environmental Principal</td>
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<td>16 hours @ $115/hr</td>
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</tr>
<tr>
<td>Project Coordinator</td>
<td>8 hours @ $90/hr</td>
<td>$720.00</td>
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<td>Hazardous Material Survey (Project Staff - 4, 8-hr shifts)</td>
<td>32 hours @ $70/hr</td>
<td>$2,240.00</td>
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<tr>
<td>Abatement Oversight (Project Staff - 10, 8-hr shifts)</td>
<td>80 hours @ $70/hr</td>
<td>$3,600.00</td>
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<td>Report Preparation (Survey)</td>
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<td>$1,840.00</td>
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<td>Specification Design</td>
<td>8 hours @ $115/hr</td>
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<tr>
<td>Close out Document (Post abatement)</td>
<td>1 @ $500</td>
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<tr>
<td>Data Processing (Project Staff)</td>
<td>16 hours @ $70/hr</td>
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<tr>
<td>Reproduction (Project Staff)</td>
<td>8 hours @ $70/hr</td>
<td>$560.00</td>
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<tr>
<td>Asbestos Sample Analysis (PLM)</td>
<td>132 samples @ $8.50/sample</td>
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<tr>
<td>PCM Analysis</td>
<td>139 samples @ $5/sample</td>
<td>$695.00</td>
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<tr>
<td>Lead Wipe Sample Analysis</td>
<td>13 samples @ $10/sample</td>
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<td>Field Consumables</td>
<td>112 hours @ $11/hr</td>
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<td>Vehicle Mileage (60 mi/day x 14 days)</td>
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Building 570

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Environmental Principal</td>
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<tr>
<td>Project Management</td>
<td>16 hours @ $115/hr</td>
<td>$1,840.00</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>16 hours @ $90/hr</td>
<td>$1,440.00</td>
</tr>
<tr>
<td>Hazardous Material Survey (Project Staff - 4, 8-hr shifts)</td>
<td>32 hours @ $70/hr</td>
<td>$2,240.00</td>
</tr>
<tr>
<td>Abatement Oversight (Project Staff - 5, 8-hr shifts)</td>
<td>40 hours @ $70/hr</td>
<td>$2,800.00</td>
</tr>
<tr>
<td>Report Preparation (Survey)</td>
<td>8 hours @ $115/hr</td>
<td>$920.00</td>
</tr>
<tr>
<td>Specification Design</td>
<td>4 hours @ $115/hr</td>
<td>$460.00</td>
</tr>
<tr>
<td>Close out Document (Post abatement)</td>
<td>1 @ $500</td>
<td>$500.00</td>
</tr>
<tr>
<td>Data Processing (Project Staff)</td>
<td>8 hours @ $70/hr</td>
<td>$560.00</td>
</tr>
<tr>
<td>Reproduction (Project Staff)</td>
<td>4 hours @ $70/hr</td>
<td>$280.00</td>
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<tr>
<td>Asbestos Sample Analysis (PLM)</td>
<td>60 samples @ $8.50/sample</td>
<td>$510.00</td>
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### Building 510

<table>
<thead>
<tr>
<th>Item</th>
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</tr>
</thead>
<tbody>
<tr>
<td>Environmental Principal</td>
<td>8 hours @ $150/hr</td>
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</tr>
<tr>
<td>Project Management</td>
<td>16 hours @ $115/hr</td>
<td>$1,840.00</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>16 hours @ $90/hr</td>
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<td>Hazardous Material Survey (Project Staff - 4, 8-hr shifts)</td>
<td>32 hours @ $70/hr</td>
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<td>Abatement Oversight (Project Staff - 5, 8-hr shifts)</td>
<td>40 hours @ $70/hr</td>
<td>$2,800.00</td>
</tr>
<tr>
<td>Report Preparation (Survey)</td>
<td>8 hours @ $115/hr</td>
<td>$920.00</td>
</tr>
<tr>
<td>Specification Design</td>
<td>4 hours @ $115/hr</td>
<td>$460.00</td>
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<tr>
<td>Close out Document (Post abatement)</td>
<td>1 @ $500</td>
<td>$500.00</td>
</tr>
<tr>
<td>Data Processing (Project Staff)</td>
<td>8 hours @ $70/hr</td>
<td>$560.00</td>
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<tr>
<td>Reproduction (Project Staff)</td>
<td>4 hours @ $70/hr</td>
<td>$280.00</td>
</tr>
<tr>
<td>Asbestos Sample Analysis (PLM)</td>
<td>60 samples @ $8.50/sample</td>
<td>$510.00</td>
</tr>
<tr>
<td>PCM Analysis</td>
<td>32 samples @ $5/sample</td>
<td>$160.00</td>
</tr>
<tr>
<td>Lead Wipe Sample Analysis</td>
<td>8 samples @ $10/sample</td>
<td>$80.00</td>
</tr>
<tr>
<td>Field Consumables</td>
<td>72 hours @ $11/hr</td>
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<tr>
<td>Office consumables</td>
<td>60 hours @ $6/hr</td>
<td>$360.00</td>
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<tr>
<td>Vehicle Mileage (60 mi/day x 18 days)</td>
<td>1,080 miles @ $0.63/mi.</td>
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<tr>
<td>Estimated Project Total</td>
<td></td>
<td>$14,823.00</td>
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</table>

### Building 480 (Food Service – Café)

<table>
<thead>
<tr>
<th>Item</th>
<th>Rate</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Principal</td>
<td>8 hours @ $150/hr</td>
<td>$1,200.00</td>
</tr>
<tr>
<td>Project Management</td>
<td>16 hours @ $115/hr</td>
<td>$1,840.00</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>16 hours @ $90/hr</td>
<td>$1,440.00</td>
</tr>
<tr>
<td>Hazardous Material Survey (Project Staff - 4, 8-hr shifts)</td>
<td>32 hours @ $70/hr</td>
<td>$2,240.00</td>
</tr>
<tr>
<td>Service Description</td>
<td>Hours</td>
<td>Rate</td>
</tr>
<tr>
<td>---------------------------------------------------</td>
<td>-----------</td>
<td>----------</td>
</tr>
<tr>
<td>Abatement Oversight (Project Staff - 5, 8-hr shifts)</td>
<td>40</td>
<td>$70/hr</td>
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<tr>
<td>Report Preparation (Survey)</td>
<td>8</td>
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<td>Specification Design</td>
<td>4</td>
<td>$115/hr</td>
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<tr>
<td>Close out Document (Post abatement)</td>
<td>1 @ $500</td>
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</tr>
<tr>
<td>Data Processing (Project Staff)</td>
<td>8</td>
<td>$70/hr</td>
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<tr>
<td>Reproduction (Project Staff)</td>
<td>4</td>
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<td>60 samples</td>
<td>$5.50/sample</td>
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<tr>
<td>PCM Analysis</td>
<td>32 samples</td>
<td>$5/sample</td>
</tr>
<tr>
<td>Lead Wipe Sample Analysis</td>
<td>8 samples</td>
<td>$10/sample</td>
</tr>
<tr>
<td>Field Consumables</td>
<td>72 hours</td>
<td>$11/hr</td>
</tr>
<tr>
<td>Office consumables</td>
<td>60 hours</td>
<td>$6/hr</td>
</tr>
<tr>
<td>Vehicle Mileage (60 mi/day x 18 days)</td>
<td>1,080 miles</td>
<td>$0.63/mi</td>
</tr>
<tr>
<td>Estimated Project Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**TERMS**

This contract is based on a lump sum amount of $87,744.00 for Basic Services. All services are subject to the Terms and Conditions attached to and made a part of this proposal.

**ACKNOWLEDGEMENT**

Please acknowledge your agreement with the above described services, fee, and terms by forwarding contract documents or by signing below and returning to us.

We look forward to working with you on this project. If you should have any questions regarding this matter, or if we can be of further assistance, please feel free to contact us at (858) 244-0440.

Very truly yours,
Winzler & Kelly

[Signature]

Jerry R. Sherman
Hazardous Material Division Manager

[Signature]

Matt Dorman
Office Manager
Acknowledged and Accepted by Client:

Signature ____________________________ Date __________

________________________________________ Print Name and Title
# PRICE SHEET

This contract is based on lump sum basis and the attached Winzler & Kelly price sheet. For our mutual agreement, the terms and limits of our liability are governed by the contents of this proposal as accepted. All invoices will be submitted Net 30.

<table>
<thead>
<tr>
<th>Staff Description</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Principal</td>
<td>$150/hr</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$115/hr</td>
</tr>
<tr>
<td>Project Coordinator</td>
<td>$90/hr</td>
</tr>
<tr>
<td>Project Staff</td>
<td>$70/hr</td>
</tr>
<tr>
<td>Testing/Laboratory Analysis/Reimbursable</td>
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</tr>
<tr>
<td>On-Site Asbestos Air Sample Analysis via PCM</td>
<td>$5/sample</td>
</tr>
<tr>
<td>Asbestos Bulk Sample Analysis (PLM)</td>
<td>$8.50/sample</td>
</tr>
<tr>
<td>Asbestos Bulk Sample Analysis (PLM) - Rush</td>
<td>$12/sample</td>
</tr>
<tr>
<td>Lead Analysis (wipes and/or air samples)</td>
<td>$10/sample</td>
</tr>
<tr>
<td>Lead Analysis (wipes and/or air samples) - Rush</td>
<td>$13.50/sample</td>
</tr>
<tr>
<td>Point Counting Analysis (1,000 pt.)</td>
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<tr>
<td>Point Counting Analysis (1,000 pt.) - Rush</td>
<td>$80/sample</td>
</tr>
<tr>
<td>TEM AHERA Asbestos Air Analysis</td>
<td>$60/sample</td>
</tr>
<tr>
<td>TEM AHERA Asbestos Air Analysis - Rush</td>
<td>$80/sample</td>
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<tr>
<td>Non-Viable Mold Analysis</td>
<td>$50/sample</td>
</tr>
<tr>
<td>Direct Reading Moisture Meter</td>
<td>Included in rates</td>
</tr>
<tr>
<td>XRF Source Deterioration Fee</td>
<td>Included in rates</td>
</tr>
<tr>
<td>Vehicle Mileage</td>
<td>.63/Mile</td>
</tr>
<tr>
<td>Any Other Outside Costs</td>
<td>Cost + 15%</td>
</tr>
</tbody>
</table>
Date: June 24, 2010

From: Linda Hernandez
Planning and Facilities Coordinator

Subject: Agreement with Southwestern Community College District

Phone: (619) 482-6481
Fax: (619) 482-6323

e-mail: lhernandez@swccd.edu

The information contained in this facsimile message is protected by the attorney-client privilege. It is intended only for the use of the individual named above. If the person receiving this is not the named recipient or the employee or agent responsible to deliver it to the named recipient, any use, dissemination, distribution or copying of the communication is strictly prohibited. If you have received this communication in error, please call (619) 482-6481 immediately.

REMARKS: ☒ Please sign and return one original no later than Friday, July 9, 2010

Enclosed are two original signature agreements between your agency and Southwestern Community College District, please sign both originals and return one original to my attention by the above mentioned date. Keep the second original for your records.

Thank you for doing business with Southwestern Community College District.

JUL 4 2010
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
              Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
               Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
               Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Request for Qualifications (RFQ) No. 113 for
          Specialty Consulting Services for Remaining Prop AA Projects

RECOMMENDATION

Recommend award of RFQ No. 113 for Division of State Architect (DSA) inspector of record
and hazardous materials consulting services to the following firms for future Proposition AA
Projects, and further recommend the Superintendent/President be authorized to sign the
agreements and any future amendments that occur:

- Consulting and Inspection Services, LLC
  Professional DSA building inspection services for nine construction projects, in an
  amount not to exceed $258,375.

- Winzler and Kelley
  Professional environmental testing and consulting services during hazardous materials
  abatement for eight construction projects, in an amount not to exceed $87,744.

OVERVIEW

On February 23, 2010, twenty-one specialty inspectors and consultants responded to RFQ
No. 113, which included various services required by the District such as DSA inspection, DSA
special inspection and material, testing, hazardous material abatement consulting, and
geotechnical services for the remaining Proposition AA projects.

Three firms responded to RFQ No. 113 to provide hazmat and consulting services for the
remaining Proposition AA projects. Based on Winzler and Kelley’s qualifications, experience
and hourly rates, they are recommended to provide hazardous consulting services.
Additionally, 12 firms responded to RFQ No. 113 to provide professional DSA Inspection services to the remaining Proposition AA projects. Based on the qualifications and prior experiences with DSA, three of the 12 were selected to provide a lump sum fee for the duration of Proposition AA projects. As a result, Consulting and Inspection Services, LLC, was the low bidder. These services will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $346,119 cost to the District/Account No.
0-45110-718618-000 (Building 220 - Proposition AA Funds)•
0-45110-718621-000 (Building 330 - Proposition AA Funds)•
0-45110-718621-000 (Building 330 - Proposition AA Funds)
0-45110-718628-000 (Building 440 - Proposition AA Funds)•
0-45110-718632-000 (Building 550 - Proposition AA Funds)•
0-45110-718633-000 (Building 560 - Proposition AA Funds)•
0-45110-718641-000 (Campus Lighting Upgrades - Proposition AA Funds)
0-45110-718642-000 (Gotham Road Widening - Proposition AA Funds)•
0-45110-718646-000 (Building 570 - Proposition AA Funds)•
0-45110-718647-000 (Building 480 Food Services/Café - Proposition AA Funds)•
0-45110-718648-000 (Building 510 - Proposition AA Funds)•
Title of Bid: Specialty Consultant RFQ No. 113 Award for Remaining Proposition AA Projects for Hazmat Consulting Services

<table>
<thead>
<tr>
<th>Company</th>
<th>Project Manager/Engineer Hourly Rates</th>
</tr>
</thead>
<tbody>
<tr>
<td>Winkler &amp; Kelley</td>
<td>$115</td>
</tr>
<tr>
<td>Ninyo &amp; Moore</td>
<td>$135</td>
</tr>
<tr>
<td>ATC Associates, Inc.*</td>
<td>$78</td>
</tr>
</tbody>
</table>

- Bolded text indicates recommended awarding firms.

Rejected Bids:
N/A

* Bidder was not responsive to the RFQ requirements per Addendum No. 1 dated February 16, 2010, which requested supplementary information. The proposed approach to perform the work did not address the specific needs of the projects. In addition, the proposal did not adhere to the format outlined in the RFQ.

**Hazmat/Abatement Services:**
Three firms responded to RFQ No. 113 to provide hazmat and consulting services for the remaining Proposition AA projects. Based on their qualifications, experience and hourly rates, Winkler and Kelley is recommended to provide hazardous consulting services on the following projects:

- Winkler and Kelley
  - Food Service/ Café
  - Photo Lab and Classroom Conversion Buildings 570 & 510
  - Roofing Repairs to Various Buildings and Walkways
  - Chemistry Lab Building 330 – HVAC Replacement
  - Student Services Center Remodel
  - Building 550 and 560 Remodel
MEMORANDUM

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Denise Whittaker
    Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
    Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
    Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Consulting and Inspection Services, LLC
    Various Proposition AA Projects

RECOMMENDATION

Recommend Ratification of Agreement No. A2970.10, related to RFQ 113, with Consulting and Inspection Services, LLC, to provide Division of State Architects (DSA) inspector of record and hazardous materials consulting services, for the period May 12, 2010 to December 31, 2011, inclusive, in an amount not to exceed $258,375.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 113 on May 12, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Consulting and Inspection Services, LLC provides professional DSA building inspection services for nine various Proposition AA projects. Consulting and Inspection
Services, LLC has relevant project experience in similar size, scope, and complexity. These services will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $258,375 Cost to the District/Account No.:
0-45110-718618-000 (Building 220 - Proposition AA Funds)
0-45110-718621-000 (Chemistry Lab Building 330 Remodel - Proposition AA Funds)
0-45110-718628-000 (Building 440 - Proposition AA Funds)
0-45110-718632-000 (Building 550 - Proposition AA Funds)
0-45110-718633-000 (Building 560 - Proposition AA Funds)
0-45110-718641-000 (Campus Lighting Upgrades – Proposition AA Funds)
0-45110-718642-000 (Gotham Road Widening – Proposition AA Funds)
0-45110-718646-000 (Building 570 – Proposition AA Funds)
0-45110-718647-000 (Building 480 Food Services/Café – Proposition AA Funds)
0-45110-718648-000 (Building 510 – Proposition AA Funds)

JRB:mk
AGREEMENT FOR INSPECTION SERVICES FOR CONSTRUCTION OF THE SOUTHWESTERN COMMUNITY COLLEGE DISTRICT VARIOUS PROPOSITION AA PROJECTS

This Agreement is made and entered into this 12th day of May, 2010 by and between the Southwestern Community College District ("District"), public school District organized under the laws of the State of California with its principle place of business at 900 Otay Lakes Road, Chula Vista, CA 91910 and Consulting and Inspection Services, LLC. ("Inspector"). District and Inspector are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

WHEREAS, the District is undertaking the construction or alteration of a school; and

WHEREAS, the District is in need of a special expert to conduct inspection of the school construction or alteration as required pursuant to Education Code Sections 39151 and 39153 and Title 24 of the California Code of Regulations; and

WHEREAS, the District does not now have on its staff of classified employees any person qualified as such a special inspector; and

WHEREAS, Government Code section 53060 authorizes the District to contract with persons specially trained and experienced and competent to perform special services and advice in such areas; and

WHEREAS, Inspector is specially trained and licensed and possesses the required skills, experience, education and competency to perform such special inspection services for the District:

NOW THEREFORE, the parties do mutually agree as follows:

1.0 Employment of Inspector. The District hereby engages Inspector, and Inspector agrees to perform the professional inspection services as hereinafter set forth.

2.0 Administration of Agreement. The Consulting and Inspection Services, LLC. shall represent District for purposes of administration of this Agreement.

3.0 Scope of Services. Inspector shall provide to District inspection services in accordance with Title 24 of the California Code of Regulations in connection with construction or alteration of the Southwestern Community College District Various Proposition AA Projects. Inspector shall act under the direction of the Architect for the project and shall be responsible to District's Governing Board, Inspector shall discharge said duties in a manner satisfactory to the District, the Architect and the Division of State Architect (DSA). The duties of Inspector shall include, but will not be limited to, the following:

3.1 Continuous Inspection Requirement. The Inspector must have actual personal knowledge, obtained by his personal and continuous observation of the construction or alteration in all stages of its progress, that the requirements of the plans, specifications and applicable codes and regulations are being exactly and completely executed. When work is carried out away from the site, the Inspector shall have that personal knowledge which is obtained from the reporting of other
approved inspectors on the testing or inspection of materials and workmanship for compliance with the plans, specifications or applicable standards. The exercise of reasonable diligence and presence during the construction process to obtain the facts is required.

3.2 Relations with Architect. The Inspector shall work under the general direction of the Architect. Any inconsistencies or seeming errors in the plans and specifications shall be reported promptly to the Architect for interpretation and instruction. In no case, however, shall the instruction of the Architect be construed to cause work to be done which is not in conformity with the approved plans, specifications or written change orders.

3.3 Job File. The Inspector shall keep a file of approved plans and specifications (including all approved addenda or change orders) on the job at all times, and shall immediately return any unapproved documents to the Architect for proper action. Inspector's file shall also contain records of communications with Architect, the Division of the State Architect, test and verification reports, deviation notices, etc. The Inspector, as a condition of his employment, shall have and maintain on the job at all times, all codes and documents referred to in the plans and specifications. Inspector shall submit his project file to the District for permanent record. Inspector may keep a duplicate file for his record.

3.4 Inspector's Semi-Monthly Reports. The Inspector shall keep the Architect thoroughly informed as to the progress of the work by making semi-monthly reports in writing as required by Title 24 of the California Code of Regulations. Two copies shall be forwarded directly to the Division of the State Architect.

3.5 Daily Log. The Inspector shall keep a daily log of activity on the construction project including, but not limited to, the weather, the number and type of tradesmen and laborers present, construction equipment present, specific work performed that day, construction material received, documents received, tests performed with results, other inspectors present, pertinent problems and questions, and official visitors. Upon completion of the project and acceptance by the District, the inspector's daily log shall be submitted to the District for its permanent records.

3.6 Notification to Division of the State Architect. The Inspector shall notify Districts' State Engineer at the Division of the State Architect: (1) when work is started on the project; (2) at least 48 hours in advance of the time foundation trenches will be complete, ready for footing forms; (3) at least 48 hours in advance of the first pour of concrete; and (4) when work is suspended for a period of more than two weeks.

3.7 Construction Procedures Records. The Inspector shall keep a record of certain phases of construction procedure including, but not limited to, the following:

3.7.1 Concrete pouring operations. The record shall show the time and date of placing concrete and the time and date of removal of forms in each portion of the structure.

3.7.2 Welding Operations. The record shall include identification marks of welders, list of defective welds, manner of correction of defects, etc.

All such records of construction procedures shall be kept on the job until the completion of the work. Upon completion of the project and acceptance by the District, these records shall be submitted to the District for its permanent records.

3.8 Deviations. The Inspector shall notify the contractor, in writing, of any deviations from the approved plans, specifications and governing codes and regulations which are not
immediately corrected by the contractor when brought to its attention. Copies of such notice shall be forwarded immediately to the Architect, the Division of the State Architect, and the District.

The failure of the Inspector to notify the contractor of deviations from the approved plans and specifications shall in no way relieve the contractor of any responsibility to complete work covered by its contract in accordance with the approved plans and specifications, and all laws and regulations.

3.9 **Verified Reports.** The Inspector shall make and submit to the Division of the State Architect verified reports as required by Title 24 of the California Code of Regulations. The Inspector shall prepare and deliver to the Division of the State Architect detailed statements of fact regarding materials, operations, etc., when requested.

3.10 **Notices to District.** The Inspector shall submit copies of all reports, notifications, deviations and change orders to the District's administrator of this Agreement.

3.11 **All of the Terms and Provisions of Exhibit A,** which is incorporated herein by reference.

4.0 **Term of Agreement.** The term of this Agreement shall begin May 13, 2010 and shall terminate December 31, 2011.

4.1 **Notice to Proceed.** Inspector shall not proceed with performance of any Services under this Agreement unless and until the District provides written notice to proceed.

5.0 **Inspector’s Fee.** District shall pay to Inspector for the performance of all services rendered pursuant to this Agreement the total amount not to exceed **TWO HUNDRED FIFTY EIGHT THOUSAND THREE HUNDRED SEVENTY FIVE AND 00/100 DOLLARS ($258,375.00)** per proposal dated April 14, 2010 as identified in Exhibit "B". Services will be compensated at a not to exceed fee based upon the monthly rates identified in Exhibit "B" as mutually agreed upon by the parties. This sum includes all expenses connected with the services performed. It is Inspector's responsibility to pay for lodging, travel, and miscellaneous expenses in conjunction with the services performed.

6.0 **Method of Payment.** Payments shall be made only upon an invoice properly submitted by Inspector accompanied by a statement certifying the extent of performance under this Agreement. Inspector's statement must have the Inspector's employer identification number. Failure to provide full information will cause delay in payment. Each invoice shall be approved by the administrator of this Agreement as designated in paragraph 2 prior to payment, each claim, if so approved and paid, shall constitute full and complete compensation to Inspector for the period covered by the claim. It is expressly understood and agreed that in no event shall Inspector be entitled to any compensation, benefits, reimbursements or ancillary services other than as herein expressly provided. Inspector and his employees are prohibited from accepting employment, payment, gift or in kind service from contractors, subcontractors, vendors or any such agency where a potential conflict of interest may exist.

7.0 **Inspector’s Employees and Equipment.** Inspector agrees that it has secured or will secure at its own expense all persons, employees and equipment required to perform under this Agreement. Inspector shall be responsible for all salaries, payments and benefits for all of its officers, agents, and employees in performing services pursuant to this Agreement. If any arrangement is made whereby employees of the District are used by Inspector and are subject to Inspector's supervision and control, they shall, while engaged in such work, be considered for all purposes as employees, servants, or agents of Inspector and not, of the District, and the indemnity provisions hereinafter set forth shall apply.
8.0 Audit and Inspection of Records. At any time during normal business hours and as often as District may deem necessary, Inspector shall make available to District for examination, at reasonable locations within the County of San Diego, all of Inspector's data and records with respect to all matters covered by this Agreement, and Inspector will permit the District to audit, examine and make excerpts or transcripts from such data and records, and to make audits of all invoices, materials, payrolls, records of personnel and other data related to all matters covered by this Agreement.

9.0 Inspector's Qualifications. Inspector shall at all times maintain for itself and its employees proper licensing and qualifications to perform the duties of inspection required to enable it to discharge the duties set forth herein. The Inspector shall give written notice to the District's Architect and the Division of the State Architect, for any ways that he may not be qualified or able to provide inspection services with personal knowledge and for all such cases when additional inspectors or special inspectors may be required.

10.0 Termination. The District may terminate this Agreement at any time and for any reason in its sole discretion, by giving written notice to the Inspector and the Division of the State Architect 10 calendar days in advance of the date of termination. In the event of such termination, Inspector shall be paid pro rata for services performed hereunder for the portion of the month up to and including the date of termination on its submittal of an invoice as required by paragraph 6 above. In the event of such termination, all finished or unfinished documents and materials, which Inspector has produced hereunder, shall become the sole and exclusive property of the District. Inspector hereby expressly waives any and all claims for damages or compensation arising under the Agreement, except as set forth in this paragraph.

11.0 Changes. The District may from time to time require changes in the scope of the services of Inspector to be performed hereunder. Such changes, including any increase or decrease in the amount of Inspector's compensation, shall be effective only when incorporated by written amendments to the Agreement signed by both parties.

12.0 Equal Opportunity. Inspector will not discriminate against any employee, or against any applicant for such employment because of age, race, color, religion, physical handicap, ancestry, sex or national origin.

13.0 Assignment. Inspector shall not assign or transfer any interest in this Agreement without the prior written consent of the District thereto.

14.0 Interest of Inspector. Inspector covenants that it presently has no interest in, including but not limited to, other projects or independent contracts, and shall not acquire any such interests, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. Inspector further covenants that in the performance of this Agreement no person having any such interest shall be employed or retained by Inspector under this Agreement.

15.0 Ownership and Confidentiality of Material. Any reports, information, data, statistics, forms, procedures, systems, studies or other communication or form of knowledge given to or prepared or assembled by Inspector under this Agreement, shall be the sole and exclusive property of the District, shall not be subject to private use, copyright or patent other than by the District, shall be kept confidential and not made available by Inspector to persons not authorized by this Agreement without District's prior approval.

16.0 Insurance and Hold Harmless. Inspector agrees to maintain such insurance as will fully protect both it, its employees and agents and the District from any and all claims under any
worker's compensation act or employer's liabilities laws and from any and all other claims of whatsoever kind of nature for the damage to property of for personal injury, including death, made by anyone whosoever, which may arise from operations carried on under this Agreement, either by Inspector, or anyone directly or indirectly engaged or employed by it. Inspector shall indemnify, hold harmless and defend the District from and against all claims, liabilities, penalties, or forfeitures whether real or alleged, arising out of the performance of this Agreement, other than those which may arise due to the exclusive negligence of the District. In the event a claim under the provision of the California Workers' Compensation Act is filed against the District by a bona fide employee of Inspector participating under this Agreement, Inspector agrees to defend and hold harmless the District from such claims.

17.0 Notices. Any notice or notices required or permitted to be given pursuant to this Agreement may be personally served or mailed by certified mail, postage prepaid, return receipt requested to the following addresses:

Inspector:
Kent Schafer
Consulting and Inspection Services, LLC.
P.O. Box 2017
San Marcos, Ca 92079

District:
Henry Amigable, CCM
Southwestern Community College
900 Otay Lakes Road Building 1681
Chula Vista, Ca 91910

18.0 Independent Contractor. It is agreed that the District is interested only in the results obtained hereunder, and that Inspector shall perform as an independent contractor with sole control of the manner and means of performing the services required under this Agreement, and not as an employee of the District.

19.0 Instructions to Proceed. Inspector is not to proceed with performance of any services under this Agreement without first securing written authorization from the District to do so.
IN WITNESS WHEREOF, the District and Inspector have executed this Agreement effective May 13, 2010.

Consulting and Inspection Services, LLC.

[Signature]
Kent Schafer
President

Southwestern Community College District

[Signature]
Raj K. Chopra, Ph. D.
Superintendent/President

Originator: Nicholas C.A Alinto, CPA, Vice President for Business & Financial Affairs

Account No.:
0-45110-718621-000 (Building 330 - Proposition AA Funds)
0-45110-718632-000 (Building 550 - Proposition AA Funds)
0-45110-718633-000 (Building 560 - Proposition AA Funds)
0-45110-718641-000 (Campus Lighting Upgrades – Proposition AA Funds)
0-45110-718642-000 (Gotham Road Widening – Proposition AA Funds)
0-45110-718646-000 (Building 570 – Proposition AA Funds)
0-45110-718648-000 (Building 510 – Proposition AA Funds)
0-45110-718603-000 (National City HEC – Proposition AA Funds)
0-45110-718647-000 (Building 480 Food Services/Café – Proposition AA Funds)

Approved as to form by the office of the
Purchasing, Contracting & Central Services
Director
Approval No.: A2970.10
Date: [Signature]
EXHIBIT A
DSA INSPECTOR DESCRIPTION OF DUTIES/SERVICES

Description

California State legislation requires that improvements to existing school facilities and all new construction be inspected by a certified DSA Inspector. Said inspections are to be made in accordance with the provision set forth in Title 24 of the California Code of Regulations. The person acting in this capacity will be responsible to the Southwestern Community College District designated representative.

General

The Inspector shall work under the direction of the Architect and the architect's consultant's, i.e. structural engineer, mechanical engineer, electrical engineer, etc., as listed on the plans. The primary purpose of the Inspector is to insure that the building is constructed in strict accordance with the plans and specification and approved change orders.

Inspector's Duties

1. To be thoroughly familiar with the plans and specifications and Title 24.

2. To insure that the building is built in exact accordance with the plans and specifications and approve change orders.

3. Inspect all construction before it is covered up and report to the Architect and District staff any construction that is not in accordance with the plans and specifications before such item is covered up.

4. To notify and coordinate testing laboratories, special inspectors, etc., of when they are required to perform their duties.

5. To make at a minimum, monthly checks of the as-built drawings to insure that the contractors are keeping them up to date and that they are properly dimensioned.

6. To keep all required Division of State Architect, School Board, and Architect's forms up to date.

7. Keep a list of all questions for the Architect and its consultant's periodic visits. These job questions would be anticipated far enough in advance that the Architect can provide clarification drawings or change orders, if required, in sufficient time to prevent any inconvenience to the contractor.

8. Any changes or clarifications by the Architect's consultants, no matter how minor, shall be reviewed by the Architect before they are carried out.

9. If inspectors representing local, State or Federal agencies having jurisdiction over the project visit the job site, accompany such inspectors during their trips through the project.
record the outcome of these inspections, and report same to the Architect and District's designated representative.

10. Maintain at the job site orderly files for (1) correspondence, (2) reports of job conferences, (3) shop drawings, and (4) reproductions of original contract documents including all addenda, change orders, and additional drawings issued subsequent to the award of contract.

11. Do not permit the installation of any materials and equipment for which shop drawings are required unless such drawings have been duly approved and issued by the Architect.

12. Do not permit the installation of any materials and equipment for which DSA approval of shop drawings, calculations, etc. are required unless specified documents have been duly approved and issued by DSA.

13. Review with all concerned the requisitions for payment as submitted by the contractor; when approved, forward to the Architect for disposition.

14. After substantial completion, make a list of items for correction before final inspection which will be forwarded to the Architect.

15. If the owner occupies (to any degree) the building prior to actual completion of the work by the Contractor, be especially alert to possibilities of claims for damage to completed work prior to the acceptance of the building.

16. Keep the District informed of all aspects of the construction project including Architectural problems.

17. Inspector shall submit a weekly time card to District representatives for review and approval when requested.

18. Inspector shall submit documentation to District representative in electronic format when requested.

19. Inspector shall provide furniture to furnish office.

**Inspectors Shall Not:**

1. Make any revisions to the plans, no matter how minor, without instructions from the Architect.

2. Discuss questions or job conditions with any subcontractor unless the Project Superintendent is present.

3. Schedule work, call subcontractors, plan sequence of operations or in any matter performing the General Contractor's duty.
EXHIBIT "B"
COST AND PRICE

For
DSA Project Inspection Services for
Remaining Prop "AA" Projects at Southwestern Community College**
April 14, 2010

Remaining Prop "AA" Projects, May 15, 2010 - December 31, 2011

Monthly Rate: 19.5 months @ $13,250.00/month = $258,375.00

The proposed pricing contemplates the payment of prevailing wages to our Project Inspectors. Base fee is subject to change pending unpublished increases to prevailing wages. Rates will be increased by 140% of the increase to the prevailing wage.

The proposed pricing does not include overtime, weekend, holiday, split or second shift work. There will be no additional charges for consumables, travel, or per diem. All hours worked or paid shall be computed in one-hour increments with a four-hour minimum.

Monthly Rate
1. The monthly rate contemplates a reasonable amount of "flex time" at the discretion of the construction schedule, owner, or project inspector as necessary to eliminate or minimize overtime, differential, or shift charges.

The base rate for any additionally required class of DSA-Certified Project Inspector will be $78.00/hour.

Overtime Work
1. Work performed in excess of eight (8) hours in any one day or Saturdays. Inspector shall invoice and be paid for one and one-half times the base fee indicated.
2. Work performed on Sundays or recognized holidays. Inspector shall invoice and be paid at two times the base fee indicated.

**Assignment of the proposed single project inspector is pending DSA approval of project inspector via DSA-5 form ("Project/Special Inspector Qualification Record") for each individual project application number.
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Request for Qualifications (RFQ) No. 113 for
Specialty Consulting Services for Remaining Prop AA Projects

RECOMMENDATION

Recommend award of RFQ No. 113 for Division of State Architect (DSA) inspector of record and hazardous materials consulting services to the following firms for future Proposition AA Projects, and further recommend the Superintendent/President be authorized to sign the agreements and any future amendments that occur:

- **Consulting and Inspection Services, LLC**
  Professional DSA building inspection services for nine construction projects, in an amount not to exceed $258,375.

- **Winzler and Kelley**
  Professional environmental testing and consulting services during hazardous materials abatement for eight construction projects, in an amount not to exceed $87,744.

OVERVIEW

On February 23, 2010, twenty-one specialty inspectors and consultants responded to RFQ No. 113, which included various services required by the District such as DSA inspection, DSA special inspection and material, testing, hazardous material abatement consulting, and geotechnical services for the remaining Proposition AA projects.

Three firms responded to RFQ No. 113 to provide hazmat and consulting services for the remaining Proposition AA projects. Based on Winzler and Kelley’s qualifications, experience and hourly rates, they are recommended to provide hazardous consulting services.
Additionally, 12 firms responded to RFQ No. 113 to provide professional DSA inspection services to the remaining Proposition AA projects. Based on the qualifications and prior experiences with DSA, three of the 12 were selected to provide a lump sum fee for the duration of Proposition AA projects. As a result, Consulting and Inspection Services, LLC, was the low bidder. These services will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $346,119 cost to the District/Account No.
0-45110-718618-000 (Building 220 - Proposition AA Funds);
0-45110-718621-000 (Building 330 - Proposition AA Funds);
0-45110-718621-000 (Building 330 - Proposition AA Funds);
0-45110-718628-000 (Building 440 - Proposition AA Funds);
0-45110-718632-000 (Building 550 - Proposition AA Funds);
0-45110-718633-000 (Building 560 - Proposition AA Funds);
0-45110-718641-000 (Campus Lighting Upgrades – Proposition AA Funds);
0-45110-718642-000 (Gotham Road Widening – Proposition AA Funds);
0-45110-718646-000 (Building 570 – Proposition AA Funds);
0-45110-718647-000 (Building 480 Food Services/Café – Proposition AA Funds);
0-45110-718648-000 (Building 510 – Proposition AA Funds).

HA:as
Title of Bid: Specialty Consultant RFQ No. 113 Award for Remaining Proposition AA Projects for Division of State Architect Inspector of Record

<table>
<thead>
<tr>
<th>Inspector of Record Consultant</th>
<th>Bid Amount</th>
</tr>
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<tbody>
<tr>
<td>Consulting &amp; Inspection Services, LLC</td>
<td>$258,375</td>
</tr>
<tr>
<td>Blue Coast Consulting, LLC</td>
<td>$263,000</td>
</tr>
<tr>
<td>State Consulting &amp; Inspection Services</td>
<td>$276,640</td>
</tr>
</tbody>
</table>

- Bolded text indicates recommended awarding firms.

Rejected Bids:

N/A

Inspector of Record Services:
12 firms responded to RFQ No. 113 to provide professional Division of State Architect (DSA) Inspection services to the remaining Proposition AA projects. Based on their qualifications and prior experiences with DSA, three of the 12 were selected to provide a lump sum fee for the duration of Proposition AA projects. As a result, Consulting and Inspection Services, LLC, was the low bidder.
MEMORANDUM

TO: Members of the Governing Board

Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities/Operations, and Planning

SUBJECT: Ratification of Agreement with Southern California Soils and Testing, Inc.
Snack Bar/Café Project

RECOMMENDATION

Recommend Ratification of Agreement No. A2974.10, related to RFQ 113, with Southern California Soils and Testing, Inc., to provide inspections and materials testing services, for the period May 13, 2010 to December 31, 2011, inclusive, in an amount not to exceed $40,014.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent / President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 113 June 9, 2010 and authorized the Superintendent/President to sign agreement and any future amendments that may occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Southern California Soils and Testing, Inc. has begun to and will furnish all equipment, materials and labor necessary for specialty inspections and materials testing services for the Snack Bar/Café project. Southern California Soils and Testing, Inc. has relevant project experience in similar size, scope, and complexity. This project has been and will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $40,014 Cost to the District/Account No.:
0-46210-718647-000 (Building 480 Snack Bar/Café - Proposition AA Funds)

JRB:mk
AGREEMENT FOR
MATERIALS TESTING AND SPECIAL INSPECTION SERVICES
BETWEEN
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
AND
SOUTHERN CALIFORNIA SOIL & TESTING, INC.

1. Parties and Date.

This Agreement ("Agreement") is made and entered into this 13th day of May 2010, by and between the Southwestern Community College District ("District"), and Southern California Soil & Testing, Inc. ("Consultant"), a corporation (collectively referred to as the "Parties" and each individually as "Party").

2. Recitals.

2.1. Consultant. Consultant is a professional consultant, experienced and properly certified/licensed in providing material testing and inspection services as required by the Division of the State Architect ("DSA") for public construction projects, and is familiar with the plans of District.

2.2. Project. District desires to engage Consultant to render special inspection and materials testing services on the Food Service/Café Project (the "Project").

3. Terms.

3.1. Scope of Services, Qualifications and Term.

3.1.1. General Scope of Services. Consultant promises and agrees to furnish all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately supply professional inspection and testing services, including, but not limited to registered special inspection services, soil and asphaltic concrete inspection and testing services, and materials sampling and laboratory testing services, as required under California Code of Regulations, Title 24 and other state law ("Services"). The Services shall include all required materials testing and inspections including, but not limited to, soil tests, geotechnical services except for hazardous materials tests (e.g. lead, asbestos, mold) and are more particularly described in Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, the exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations.

3.2. Term of Agreement. The term of this Agreement shall begin May 13, 2010 and shall terminate December 31, 2011.
3.3. Responsibilities of Consultant.

3.3.1. Control and Payment of Consultants and its Subordinates. District retains Consultant on an independent contractor basis and Consultant is not an employee of District. Any additional personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law including, but not limited to, the payment of prevailing wage, as applicable, and in accordance with Labor Code Sections 1720 et seq. and 1770 et seq. The Consultant shall obtain a copy of the prevailing rates of per diem wages applicable to the work to be performed under this Agreement from the website of the Division of Labor Statistics and Research of the Department of Industrial Relations located at www.dir.ca.gov/dlsr/. In the alternative, the District shall provide Consultant with a copy of the prevailing rates of per diem wages. Consultant shall be responsible for all reports and obligations respecting such employees, including, but not limited to, social security taxes, income tax withholding, unemployment insurance, and workers' compensation insurance.

If the District uses funds derived from the Kindergarten-University Public Education Facilities Bond Acts of 2002 and 2004 for this Project, it is required to enforce the District's Labor Compliance Program ("LCP"). The Consultant shall abide by the District's LCP, if applicable.

3.3.2. Conformance to Applicable Requirements. All work prepared by Consultant is subject to the approval of District and any and all applicable regulatory State agencies, and shall be the property of District.

3.3.3. Reports. Consultant shall provide copies of all reports required to be submitted to applicable regulatory State agencies to District, whether or not such reports must be submitted to the District.

3.3.4. Work Authorization. Consultant shall obtain from District a work authorization for the Project. Such work authorization shall reiterate Consultant's duties outlined herein. The work authorization shall be written in the amount set forth in Exhibit "B."

3.3.5. Maintenance of Construction Records. Consultant shall maintain complete and accurate testing and inspection records with respect to all records related to the Project. These records shall be maintained by Consultant and made available at all reasonable times during any period which services are provided for the Project and for four (4) years from the date of Notice of Completion for the Project as contracted for inspection by the District.
3.3.6. **Coordination of Services.** Consultant agrees to work closely with District staff in the performance of Services and shall be available to District's staff, consultants and other staff at all reasonable times.

3.3.7. **Standard of Care.** Consultant shall perform all Services under this Agreement in a skillful, competent and timely manner, consistent with the standards generally recognized as being employed by professionals in the same discipline in the State of California. Consultant represents and maintains that it is skilled in the professional calling necessary to perform the Services. Consultant warrants that all of Consultant's employees and subcontractors shall have sufficient skill and experience to perform the Services assigned to them. Consultant further represents that it, its employees and subcontractors or subconsultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services, and that such licenses and approvals shall be maintained throughout the term of this Agreement. Any of Consultant's employees who are determined by District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any of Consultant's employees who fail or refuse to perform the Services in a manner acceptable to District, shall be promptly removed from the Project by the Consultant and shall not be re-employed to perform any of the Services or to work on the Project.

3.3.8. **Laws and Regulations.** Consultant shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Project or the Services, including all California Code of Regulations Title 24 and Cal/OSHA requirements, and shall give all notices required by law. Consultant shall be liable for all violations of such laws and regulations in connection with Services.

3.3.9. **Insurance.**

3.3.9.1. **Time for Compliance.** Consultant shall not commence Services under this Agreement until it has provided evidence satisfactory to District that it has secured all insurance required under this Section. In addition, Consultant shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to District that the subcontractor has secured all insurance required under this Section.

3.3.9.2. **Minimum Requirements and Limits.** Consultant shall, at its expense, procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Consultant, its
agents, representatives, employees or subcontractors. Consultant shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage included in this Agreement.

3.3.9.3. Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following:

(1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001);

(2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto);

(3) Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and

(4) Professional Liability: Coverage which is appropriate to the Consultant's profession, or that of its consultants or subcontractors.

3.3.9.4. Minimum Limits of Insurance. Consultant shall maintain limits no less than:

(1) General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit;

(2) Automobile Liability: $1,000,000 per accident for bodily injury and property damage;

(3) Workers' Compensation and Employer's Liability: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of $1,000,000 per accident for bodily injury or disease; and

(4) Professional Liability: Not less than $1,000,000 per claim/ $2,000,000 aggregate.
3.3.9.5. **Insurance Endorsements.** The insurance policies shall contain the following provisions, or Consultant shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

3.3.9.6. **General Liability.** The general liability policy shall be endorsed to state that:

(1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Work or operations performed by or on behalf of the Consultant, including materials, parts or equipment furnished in connection with such work; and

(2) the insurance coverage shall be primary insurance as it respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant’s scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant’s insurance and shall not be called upon to contribute with it in any way.

3.3.9.7. **Automobile Liability.** The automobile liability policy shall be endorsed to state that:

(1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Consultant or for which the Consultant is responsible; and

(2) the insurance coverage shall be primary insurance as it respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Consultant’s scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Consultant’s insurance and shall not be called upon to contribute with it in any way.
3.3.9.8. **Workers’ Compensation and Employers Liability Coverage.** The insurer shall agree to waive all rights of subrogation against the City, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Consultant.

3.3.9.9. **Professional Liability.** Consultant and its sub-consultants and subcontractors shall procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance with limits discussed in this Section. This insurance shall be endorsed to include contractual liability.

3.3.9.10. **All Coverages.** Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to District, its directors, officials, officers, employees, agents and volunteers.

3.3.9.11. **Separation of Insureds: No Special Limitations.** All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers.

3.3.9.12. **Acceptability of Insurers.** With the exception of Workers’ Compensation Insurance, all insurance required hereunder is to be placed with insurers with a current A.M. Best’s rating no less than A+VIII, which are licensed to do business in California, and which maintain an agent for process within the state. Workers’ Compensation insurance required under this Agreement must be offered by an insurer meeting the above standards with the exception that the A.M. Best’s rating condition is waived at the discretion of the District.

3.3.9.13. **Verification of Coverage.** Consultant shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by District if requested. District reserves the right to require
3.3.10. **Safety.** Consultant shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Consultant shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees and subcontractors appropriate to the nature of the Services and the conditions under which the Services are to be performed. Safety precautions as applicable shall include, but shall not be limited to: (1) adequate life protection and life saving equipment and procedures; (2) instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and (3) adequate facilities for the proper inspection and maintenance of all safety measures.

3.3.11. **Project Staffing.** Consultant shall provide adequate staff and resources to facilitate all contractor's activity. Should Consultant fail to adequately staff a project, the District may, at its sole discretion, retain third party inspection services and back charge Consultant for all third party fees.

### 3.4. Fees and Payments.

3.4.1. **Compensation.** District shall pay to Consultant for the performance of all services rendered pursuant to this Agreement the total amount not to exceed **FORTY THOUSAND FOURTEEN AND 00/100 DOLLARS ($40,014)** per the proposal dated April 15, 2010 as identified in Exhibit "B". Services will be compensated at a not to exceed fees based upon rates identified in Exhibit "B" as mutually agreed upon by the parties. This sum includes all expenses connected with the services performed.

3.4.2. **Reimbursement of Expenses.** Consultant shall not be reimbursed for any expenses unless authorized in writing by District.

3.4.3. **Payment of Compensation.** Consultant shall submit to District an itemized statement which indicates work completed and hours of Services rendered by Consultant. District shall pay Consultant within a reasonable time and in accordance with this Agreement.

3.4.4. **Extra Work.** At any time during the term of this Agreement, District may request that Consultant perform Extra Work. As used herein, "Extra Work" means any Services which are determined by District to be necessary, but which the Parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not
perform, nor be compensated for, Extra Work without written supplemental work authorization from District.

3.5. Maintenance of Accounting Records.

Consultant shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Consultant shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of four (4) years from the date of final payment under this Agreement.


3.6.1. Suspension of Services. The District may, in its sole discretion, suspend all or any part of Services provided hereunder without cost; provided, however, that if the District shall suspend Services for a period of ninety (90) consecutive days or more and in addition such suspension is not caused by Consultant or the acts or omissions of Consultant, upon recession of such suspension, the compensation will be subject to adjustment to provide for actual costs and expenses incurred by Consultant as a direct result of the suspension and resumption of Services under this Agreement. Consultant may not suspend its service without District's express written consent.

3.6.2. Termination of Agreement.

3.6.2.1. Grounds for Termination. District may, by written notice to Consultant, terminate the whole or any part of this Agreement at any time and without cause by giving written notice to Consultant of such termination, and specifying the effective date thereof, at least seven (7) days before the effective date of such termination. Upon termination, Consultant shall be compensated only for those services which have been adequately rendered to District, and Consultant shall be entitled to no further compensation. Consultant may not terminate this Agreement except for cause.

3.6.2.2. Loss of Construction Inspector Certification. This Agreement shall automatically terminate and payment shall cease should the Consultant fail to provide a properly certified inspector for the project for which Consultant is providing services to the District.

3.6.2.3. Effect of Termination. If this Agreement is terminated as provided in this Section, District may require Consultant to
provide all finished or unfinished documents, data, programming source code, reports or any other items prepared by Consultant in connection with the performance of Services under this Agreement. Consultant shall be required to provide such documents and other information within fifteen (15) days of the request.

3.6.2.4. **Additional Services.** In the event this Agreement is terminated in whole or in part as provided herein, District may procure, upon such terms and in such manner as it may determine appropriate, services similar or identical to those terminated.

3.6.3. **Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective Parties may provide in writing for this purpose:

**CONSULTANT:**

Southern California Soils and Testing, Inc.
6280 Riverdale Street
San Diego, CA 92120

Attn: Gordon Woodard
Phone: (619) 944-4059

**DISTRICT:**

Southwestern Community College District
900 Otay Lake Road, Chula Vista, Ca 91910

Attn: Nicholas Alioto
Phone: (619) 482-6311

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.6.4. **Mediation.** Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the Parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the Parties.
3.6.5. **Ownership of Materials and Confidentiality.**

3.6.5.1. All materials and data, including but not limited to, data on magnetic media and any materials and data required to be made or kept pursuant to federal, state or local laws, rules or regulations, prepared or collected by Consultant pursuant to this Agreement, shall be the sole property of the District, except that Consultant shall have the right to retain copies of all such documents and data for its records. District shall not be limited in any way in its use of such materials and data at any time, provided that any such use not within the purposes intended by this Agreement shall be at District's sole risk and provided that Consultant shall be indemnified against any damages resulting from such use, including the release of this material to third parties for a use not intended by this Agreement.

3.6.5.2. All such materials and data shall be provided to the District, or such other agency or entity as directed by District or required by law, rule or regulation, immediately upon completion of the term of this Agreement as directed by District. Should District wish to obtain possession of any such materials or data during the term of this Agreement, it shall make its request in writing. Such information shall be provided to the District within forty-eight (48) hours of its request.

3.6.6. **Attorney's Fees.** If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party reasonable attorney's fees and all other costs of such action.

3.6.7. **Indemnification.** Consultant shall indemnify and hold the District, its officials, officers, employees, and volunteers free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any acts, omissions or willful misconduct of Consultant, its officials, officers, employees, volunteers, consultants and contractors arising out of or in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all attorneys fees and other related costs and expenses. Consultant shall reimburse District and its directors, officials, officers, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.
3.6.8. **Entire Agreement.** This Agreement contains the entire Agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements.

3.6.9. **Governing Law.** This Agreement shall be governed by the laws of the State of California. Any action brought to enforce the terms of this Agreement shall be brought in a State or Federal court located in the County of San Diego, State of California.

3.6.10. **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

3.6.11. **District's Right to Employ Other Consultants.** District reserves right to employ other consultants in connection with this Project. However, Consultant shall be the exclusive consultant for purposes of the Services as noted within this Agreement, unless terminated as provided herein.

3.6.12. **Successors and Assigns.** This Agreement shall be binding on the successors and assigns of the Parties, and shall not be assigned by Consultant without the prior written consent of District.

3.6.13. **Amendments.** This Agreement may not be amended except by a writing signed by the District and Consultant.

3.6.14. **Severability.** If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason held invalid or unenforceable, the validity of the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to this Agreement.

3.6.15. **Interpretation.** In interpreting this Agreement, it shall be deemed that it was prepared jointly by the Parties with full access to legal counsel of their own. No ambiguity shall be resolved against any party on the premise that it or its attorneys were solely responsible for drafting this Agreement or any provision thereof.

3.6.16. **Conflict of Interest.** For the term of this Agreement, no member, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.6.17. **Equal Opportunity Employment.** Consultant represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Consultant shall also comply with all relevant provisions of
District's Minority Business Enterprise program, if any, or other related programs or guidelines currently in effect or hereinafter enacted. Consultant must make a good faith effort to contact and utilize DVBE subcontractors or subconsultants and suppliers in securing bids for performance of the Agreement and shall be required to certify its good faith efforts towards retaining DVBE subcontractors or subconsultants and suppliers and identify DVBE firms utilized in performance of the Agreement.

3.6.18. **Fingerprinting Requirements.** Consultant hereby acknowledges that, if applicable, it is required to comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. The Consultant shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. If required by Education Code Section 45125.1, the Consultant must provide for the completion of a Fingerprint Certification form, in the District's required format, prior to any of the Consultant's employees, or those of any other consultants, coming into contact with the District's pupils.

3.6.19. **Taxpayer I.D.** The Consultant shall deliver the Consultant's Federal IRS Taxpayer I.D. number to the District prior to any payments being made by the Owners under this Agreement.

3.6.20. **Exhibits and Recitals.** All Exhibits and Recitals contained herein are hereby incorporated into this Agreement by this reference.

3.6.21. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one agreement.

Southwestern Community College District

By: 
Raj K. Chopra, Ph.D.
Superintendent/President

Southern California Soils & Testing, Inc.

By: 
Gordon Woodard
Vice President

Federal Tax I.D. # 95-2240733

Originator: Nicholas Alioto, Vice President for Business & Financial Affairs

Account No.: 0-45110-718647-000

Approved as to form by the office of the Purchasing, Contracting & Central Services Director

Approval No.: A2974-10

Date: 6/29/11
EXHIBIT "A"
SCOPE OF SERVICES

Consultant shall provide the services set forth herein, as well as any incidental services necessary for the full and adequate completion of Project Services in strict accordance with all applicable local, state and federal laws, rules and regulations, including but not limited to, the State Building Code, California Code of Regulations, Title 24 and Instructions on Division of the State Architect ("DSA"), Structural Tests and Inspections form SSS 103-1 (as provided for the project), and instructions included herein. Special Inspectors and testing staff shall be prepared to attend Project progress meetings and other specially called meetings as determined by the Project Inspector. Consultant shall respond to the Project Inspector's scheduling and coordination for Inspections and Sampling and Testing services. Consultant shall provide daily and/or individual occurrence reports of Special Inspections and Testing results on previously approved forms and provide sufficient copies to the Project Inspector for his/her distribution to the Construction Contractor, and Architect. The Services shall be performed at the hourly billing rates and/or sampling and testing unit prices included in Exhibit "B."

1. GEOTECHNICAL ENGINEER OF RECORD AND SOILS OBSERVATION AND TESTING

The geotechnical portions of this project shall be performed under the direction of a Geotechnical Engineer, which shall be the Geotechnical Engineer of Record for the project. A technician with a nuclear gauge shall perform density and moisture testing in the field during grading, utility trench backfilling, and pavement operations utilizing American Society for Testing and Materials (ASTM) D2922, D3017, and ASTM D1556 methods. Laboratory maximum density and optimum moisture determination shall be performed in accordance with ASTM D1557 or D698. Asphalt pavement placement and testing shall be performed in accordance with Caltrans methods.

1.1. Consultant shall provide:

1.1.1. Perform a site reconnaissance, reviewing the geotechnical engineering report for this project, reviewing the drawings, and preparing a transfer of geotechnical engineer of record responsibility letter;
1.1.2. Project management, consultation during construction, preparation of daily field, foundation excavation observation, and final grading reports;
1.1.3. Ensure soils conditions are in conformance to soils report
1.1.4. Foundation Inspection
1.1.5. Caisson, drilled piers or driven piles inspection
1.1.6. As-graded soils report
1.1.7. Observation and testing during site clearing and mass grading;
1.1.8. Observing the foundations excavations for structures;
1.1.9. Observation and testing during backfilling of utility trenches;
1.1.10. Observation and testing during backfilling around retaining walls;
1.1.11. Observation and testing during subgrade preparation and base rock placement in asphalt paved areas;
1.1.12. Observation and testing during asphalt concrete placement.
1. Perform the following Sampling and Testing of Materials and Testing of Work-in-Place as may be required by the DSA Testing and Inspection Listing, and as required by the District. The Testing shall be performed in accordance with ASTM test methods and California test methods as appropriate. All Laboratory testing shall be accomplished in a DSA certified laboratory:

1.1.13.1. Soil, Aggregate & Asphalt
1.1.13.2. Maximum Dry Density
1.1.13.3. Expansion Index (ASTM D4318)
1.1.13.4. R-Value
1.1.13.5. Sand Equivalent
1.1.13.6. Sieve Analysis (ASTM C136)
1.1.13.7. Hveem Stability
1.1.13.8. Asphalt Extration (ASTM 2172)
1.1.13.9. Hardness and Abrasion
1.1.13.10. Atterberg limits (ASTM 4318)
1.1.13.11. No. 200 Sieve Analysis (ASTM D422)
1.1.13.12. Specific Gravity C127/C128
1.1.13.13. Asphalt and Asphaltic Concrete Gradation (ASTM C136)
1.1.13.14. Asphalt and Asphaltic Concrete Specific Gravity (ASTM D1188)
1.1.13.16. Asphalt and Asphaltic Concrete Abrasion (ASTM C131)
1.1.13.17. Asphalt and Asphaltic Concrete Unit Weight (ASTM D2736)
1.1.13.18. Asphalt Cores

1.2. Observation and testing shall consist of visual observation of earthwork activities and taking field density and moisture tests for the purpose of ascertaining that the work is in substantial conformance with the contract documents. Such observation and testing shall not be relied upon by others as acceptance of the work nor shall it be construed to relieve the contractor in any way from his obligation and responsibilities under the construction contract. Specifically, but without limitations, observation and testing shall not require the technician and engineer to assume responsibilities for the means and methods of construction nor for safety on the jobsite.

2. CONCRETE/MIX DESIGN REVIEW, CONCRETE SPECIAL INSPECTIONS, AND CONCRETE MATERIAL TESTING

2.1. Inspection services shall be provided for concrete, prestressed concrete, reinforcing steel and prestressing steel, batch plant, insulating concrete, lightweight concrete, field sampling (slump, air entrainment, unit weight and yield tests), concrete coring, proof testing (installed epoxy & nonshrink grout
bolts) and proof testing (installed wedge and expansion anchors), and tagging and sampling and testing of reinforcing steel.

2.2. Consultant shall review the proposed concrete mixes for conformance with the specifications.

2.3. Consultant shall perform the following tests:

2.3.1. Concrete Compression Tests:

2.3.1.1. Concrete Cylinders (ASTM C39)
2.3.1.2. Concrete Cores (ASTM C39)
2.3.1.3. Lightweight Concrete (ASTM C39)
2.3.1.4. Insulating Concrete (ASTM C495)
2.3.1.5. Dry Unit Weight of Light Weight Concrete ASTM C567

2.3.2. Concrete Flexural Tests:

2.3.2.1. Flexural Test (ASTM C293/C78)

2.3.3. Steel Reinforcing:

2.3.3.1. Tensile (ASTM A615)
2.3.3.2. Bend (ASTM A615)

2.3.4. Concrete Aggregate:

2.3.4.1. Conformance Test (ASTM C33)

(Sieve Analysis, Deleterious Substances & Soundness)

3. REINFORCING STEEL PLACEMENT

Prior to the pours, Consultant shall inspect the reinforcing steel placement to determine that it is according to plans and specifications. Consultant shall check:

3.1.1. Size and spacing of bars;
3.1.2. Location and length of splices;
3.1.3. Clearances;
3.1.4. Cleanliness of bars;
3.1.5. Spacing tolerances;
3.1.6. Proper support of steel with ties.
4. CONCRETE PLACEMENT

During the pours, Consultant shall be on-site continuously, as required by Code, to monitor placement. Consultant shall:

4.1.1. Determine that no bars are displaced during the pouring;
4.1.2. Observe cleanliness of steel;
4.1.3. Determine adequacy of placement and vibratory equipment;
4.1.4. Determine proper delivery rate of concrete and monitor batch times;
4.1.5. Determine the correct mix is being utilized;
4.1.6. Monitor slump of each truck;
4.1.7. Record temperature of air and concrete;
4.1.8. Cast cylinders for compression tests at the specified frequency;
4.1.9. Perform air checks, if required by specifications, during concrete placement;
4.1.10. Observe anchor bolt/dowel installation operations to determine hold depth, embedment and cleanliness, as well as materials and workmanship. Consultant shall inspect to determine all dowels are installed in accordance with contract documents and/or manufacturer’s requirements.

5. COMPRESSION TESTING

Consultant shall transport all samples to our laboratory for compression testing in strict accordance with ASTM requirements. Compression test reports shall be distributed to the appropriate parties.

6. MASONRY MIX DESIGN REVIEW, MASONRY INSPECTION AND TESTING

6.1. Consultant shall review the proposed grout and mortar mixes in our laboratory for conformance with the specifications.

6.2. During preparation of masonry wall prisms, sampling & placing of all Masonry units, placement of reinforcement, inspection of grout space immediately prior to closing or cleanouts & during all grouting operations.

6.3. Laboratory Tests

6.3.1. Masonry Compression Tests:

6.3.1.1. Mortar (UBC 21 - 16)
6.3.1.2. Grout (UBC 21 - 18/ASTM C1019)
6.3.1.3. Masonry Prism (ASTM E447)
6.3.1.4. Masonry Cores (ASTM C42)
6.3.1.5. Shear Tests - Masonry Cores (UBC 2405(c)4.C)
6.3.1.6. Dry Shrinkage - Masonry Units (ASTM C426)
6.3.1.7. Sample Pick-up & Delivery
6.3.2. Steel Reinforcing:

6.3.2.1. Tensile (ASTM A615)
6.3.2.2. Bend (ASTM A615)
6.3.2.3. Steel Tagging, Pick-up & Delivery

6.3.3. Concrete Aggregate:

6.3.3.1. Conformance Test (ASTM C404)
(Sieve Analysis, Deleterious Substances & Soundness)

6.4. Consultant’s duties shall include the following:

6.4.1. Review mill test certifications of block and reinforcing steel;
6.4.2. Inspect to determine size and spacing of dowels;
6.4.3. Inspect to determine that cleanouts are provided for high-lift grouting methods;
6.4.4. Inspect proper lay-up of block units;
6.4.5. Inspect reinforcing steel prior to grouting;
6.4.6. Inspect dowels, anchor bolts and inserts, to make sure they are in place and properly secured prior to grouting;
6.4.7. Inspect to determine proper consolidation of grout;
6.4.8. Check that curing requirements are being followed.

7. STRUCTURAL STEEL

7.1. Consultant shall provide inspection services for the following:

7.1.1. Field Welding
7.1.2. High Strength Bolting
7.1.3. Metal Decking
7.1.4. Welded Stud Connectors
7.1.5. Fabrication Shop

7.2. Consultant shall provide the following Non-Destructive Examinations (Field Testing) in strict conformance with ASTM standards:

7.2.1. Ultrasonic Examination
7.2.2. Magnetic Particle Examination
7.2.3. Liquid Penetrant Examination
7.2.4. Radiographic Examination

7.3. Consultant shall provide the following Non-Destructive Examinations (Fabrication Shop Testing):

7.3.1. Ultrasonic Examination
7.3.2. Magnetic Particle Examination
7.3.3. Liquid Penetrant Examination
7.3.4. Radiographic Examination

7.4. Laboratory Tests

7.4.1. High strength bolts:

7.4.1.1. Hardness Test (ASTM A325)
7.4.1.2. Tensile Strength (ASTM F606)

8. FIREPROOFING

8.1. Inspection during the installation, density testing and adhesion/cohesion testing.
EXHIBIT B
PROPOSAL NO. 10M040
BUDGET ESTIMATE FOR GEOTECHNICAL
EARTHWORK OBSERVATION AND TESTING,
SPECIAL INSPECTION AND
MATERIALS TESTING SERVICES
SOUTHWESTERN COLLEGE
SNACK BAR/CAFÉ
900 OTAY LAKES ROAD
CHULA VISTA, CALIFORNIA

SUBMITTED APRIL 15, 2010 TO:
SOUTHWESTERN COLLEGE BUSINESS,
OPERATIONS AND FACILITIES PLANNING
900 OTAY LAKES ROAD
CHULA VISTA, CALIFORNIA 91910

SUBMITTED BY:
SOUTHERN CALIFORNIA SOIL & TESTING, INC.
6280 RIVERDALE STREET
SAN DIEGO, CALIFORNIA 92120

Providing Professional Engineering Services Since 1959
Subject: **BUDGET ESTIMATE FOR GEOTECHNICAL EARTHWORK OBSERVATION AND TESTING, SPECIAL INSPECTION AND MATERIALS TESTING SERVICES**
**SOUTHWESTERN COLLEGE SNACK BAR/CAFÉ**
900 OTAY LAKES ROAD
CHULA VISTA, CALIFORNIA 91910


In accordance with your request, Southern California Soil and Testing, Inc. (SCS&T) is pleased to submit this preliminary budget estimate for professional services at the subject project located on Otay Lakes Road in Chula Vista, California. We understand the project will consist of a snack bar/café. SCS&T has reviewed the above-referenced documents and addressed the requirements for geotechnical earthwork observation and testing, special inspection and materials testing in the attached scope of services. Geotechnical observations and tests are expected to be required for building pad preparation, utility trench backfill, pavement subgrade preparation and base course. Special inspection required for this project will consist of cast-in-place concrete and structural steel. Based upon our review of the project documents and experience on similar projects, we propose to provide our services on a time and materials basis at the unit rates provided in the attached budget estimate.

SCS&T can submit a revised budget estimate should a construction schedule or revised plans become available. The time requirements for our services are directly dependent upon the performance of the contractor/subcontractor performing the work. We will invoice for services performed at the specified unit rates for the quantities shown in the attached budget estimate. The estimated budget covers services specifically outlined in this proposal. Should additional services become necessary and/or requested, the additional services will be invoiced in accordance with the rates listed on the attached Schedule of Fees.
PERSONNEL

Gordon Woodard is a California Registered Civil Engineer with over 15 years of materials testing and special inspection experience and will be the Engineer in charge and the primary point of contact of this project.

SCOPE OF WORK

GEOTECHNICAL OBSERVATIONS AND TESTS
The scope of services for geotechnical observations and tests will consist of:

- Project engineer participation in a pre-construction meeting;
- Observing excavations for building foundations;
- Observing and testing utility trench backfill;
- Observing subgrade preparation for pavements and testing the completed subgrade;
- Observing and testing pavement base course;
- Preparing a final summary report including the results of observations and tests.

SPECIAL INSPECTION AND MATERIALS ENGINEERING SERVICES
Based upon our review of the referenced documents, and in accordance with the requirements of the approved plans and specifications, 2007 CBC, and DSA requirements, our proposed scope of services for special inspection and materials testing will consist of the following:

- Reinforcing steel, periodic -- during placement of steel and before placement of concrete;
- Reinforced concrete, continuous -- during the placement and sampling of concrete as required;
- All structural shop/field welding and field welding of reinforcing steel, continuous;
- Ultrasonic testing of complete penetration welds;
- Drilled and/or epoxy adhesive anchors -- during installation of anchors.

Additional services that were not specifically stated in construction plans but are required in accordance with the 2007 CBC or DSA requirements will be provided as follows:

- Provide daily inspection reports describing the work inspected and stating compliance or non-compliance with the project documents. A copy of the daily report will be left with the on-site superintendent. Reports will be reviewed by SCS&T's project engineer, a Registered Civil Engineer, and will be distributed to the designated recipients.
- Fabricate, transport and test concrete for slump, temperature and compressive strength at the rate of one set of three concrete test cylinders per 50 cubic yards, 5,000 square-feet or for each day's placement. One cylinder will be tested at seven days and two at 28 days.
Test reports shall be prepared and distributed to the designated persons. Suspect or failing test results will be reported to the designated person(s) on the day of the test.

- Provide supervision of our project personnel by our project engineer, a Registered Civil Engineer. The project engineer will review all special inspection reports and test results, attend site meetings as requested, and review all billing. Additionally, the project manager will act as a point of contact and will be available to answer questions that may arise.

Optional Services (Not Included in SCS&T’s Budget Estimate)
- Provide continuous Quality Control Inspection Services of all roofing and waterproofing applications.

**Cost Information**

Our budget estimate for services is based on our review of the referenced documents, and past experience on similar projects. We propose to provide our services on a time and materials basis according to the Schedule of Fees included in this budget estimate. Based on the above scope, we estimate our fees to be approximately $40,014. A cost table presenting a breakdown of our estimate has been provided in this budget estimate.

**Notes:**

1. Recognizing that our services are directly dependent upon the performance of others, we will invoice for services rendered at the specified unit rates for the quantities shown on the attached budget estimate. It should be recognized that unforeseen conditions, unfavorable weather and other unanticipated conditions may affect the actual duration of the work. Services in addition to those described in this budget estimate may be requested by or on behalf of the client and will be invoiced on a time and materials basis at the unit rates outlined in this document.

2. The unit costs shown are based upon work taking place between the hours of 0600 and 1700; Monday through Friday, excluding nationally recognized holidays. Work performed on a Saturday or more than 8 hours on a given day will be invoiced at 1.5 times the standard rate. Work performed on Sunday or nationally recognized holidays will be invoiced at 2 times the standard rate. All unscheduled cancellations will be invoiced a minimum of 2 hours. All other terms and conditions shall be per our standard Schedule of Fees.

**Definition Of Responsibility**

The presence of our field representative will be for the purpose of observing the construction and reporting its general compliance with the approved plans and the applicable building codes. Our work does not include the supervision or direction of the contractor’s work, his employees or agents. The contractor is responsible for his/her own work, and neither the presence of our field personnel nor the observation and testing by this firm should excuse him in any way for defects in his work. It should further be understood that we are not responsible for site safety. During the course of a subsurface investigation, heavy equipment may disrupt the site.
# BUDGET ESTIMATE SUMMARY

## GEOTECHNICAL ENGINEERING SERVICES

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<td></td>
<td></td>
<td></td>
<td><strong>$2,670.00</strong></td>
</tr>
<tr>
<td>255</td>
<td>Pre-construction Meeting, Senior Project Manager</td>
<td>1 hour</td>
<td>@ $135.00/hour</td>
</tr>
<tr>
<td>258</td>
<td>Field Observations, Staff Geologist</td>
<td>2 hours</td>
<td>@ $125.00/hour</td>
</tr>
<tr>
<td>315</td>
<td>Project Management, Senior Project Manager</td>
<td>6 hours</td>
<td>@ $135.00/hour</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>$1,195.00</strong></td>
</tr>
<tr>
<td>415</td>
<td>Final Report - Geotechnical</td>
<td>1 report</td>
<td>@ $850.00/report</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>$850.00</strong></td>
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<tr>
<td></td>
<td><strong>LABORATORY TESTING</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>715</td>
<td>Maximum Density Test</td>
<td>2 tests</td>
<td>@ $212.00/test</td>
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<tr>
<td>720</td>
<td>Sieve Analysis</td>
<td>2 tests</td>
<td>@ $71.00/test</td>
</tr>
<tr>
<td>738</td>
<td>Resistance-Value</td>
<td>1 tests</td>
<td>@ $265.00/test</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td><strong>$831.00</strong></td>
</tr>
</tbody>
</table>

**TOTAL FOR GEOTECHNICAL OBSERVATION AND TESTING SERVICES**: $5,256.00
# BUDGET ESTIMATE SUMMARY
## MATERIALS ENGINEERING SERVICES

<table>
<thead>
<tr>
<th>PH</th>
<th>CODE</th>
<th>Description</th>
<th>Hours/Unit</th>
<th>Rate/Unit</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td></td>
<td>SPECIAL INSPECTION</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>DEPUTY INSPECTOR/TECHNICIAN</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>123</td>
<td></td>
<td>Concrete</td>
<td>16 hours</td>
<td>$85.00/hour</td>
<td>$1,360.00</td>
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<tr>
<td>140</td>
<td></td>
<td>Batch Plant Inspection</td>
<td>40 hours</td>
<td>$80.00/hour</td>
<td>$3,200.00</td>
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<tr>
<td>142</td>
<td></td>
<td>Cast-in-Place Concrete Inspection</td>
<td>160 hours</td>
<td>$85.00/hour</td>
<td>$13,600.00</td>
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<tr>
<td>148</td>
<td></td>
<td>Concrete Quality Control (ACI)</td>
<td>16 hours</td>
<td>$80.00/hour</td>
<td>$1,280.00</td>
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<tr>
<td></td>
<td></td>
<td>Structural Steel</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>147</td>
<td></td>
<td>Tag and Sample Rebar / HS Bolts*</td>
<td>6 hours</td>
<td>$80.00/hour</td>
<td>$640.00</td>
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<tr>
<td>149</td>
<td></td>
<td>Structural Steel (Field) (AWS/CWI)</td>
<td>60 hours</td>
<td>$90.00/hour</td>
<td>$5,400.00</td>
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<tr>
<td>150</td>
<td></td>
<td>Structural Steel Ultrasonic Testing (Field)</td>
<td>16 hours</td>
<td>$90.00/hour</td>
<td>$1,440.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Structural Steel Shop (San Diego County) (AWS/CWI)</td>
<td>16 hours</td>
<td>$90.00/hour</td>
<td>$1,440.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>PH</th>
<th>CODE</th>
<th>Description</th>
<th>Hours/Unit</th>
<th>Rate/Unit</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>315</td>
<td></td>
<td>Project Management, Senior Project Manager</td>
<td>6 hours</td>
<td>$135.00/hour</td>
<td>$810.00</td>
</tr>
</tbody>
</table>

## REPORTS

<table>
<thead>
<tr>
<th>PH</th>
<th>CODE</th>
<th>Description</th>
<th>Hours/Unit</th>
<th>Rate/Unit</th>
<th>Total Cost</th>
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</thead>
<tbody>
<tr>
<td>302</td>
<td></td>
<td>Final Verified Report</td>
<td>1 report</td>
<td>$250.00/report</td>
<td>$250.00</td>
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<tr>
<td>316</td>
<td></td>
<td>Concrete Mix Design Review</td>
<td>3 review</td>
<td>$167.00/review</td>
<td>$501.00</td>
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</table>

### SUBTOTAL FOR SPECIAL INSPECTIONS
$31,721.00

## MATERIALS LAB TESTING

<table>
<thead>
<tr>
<th>PH</th>
<th>CODE</th>
<th>Description</th>
<th>Hours/Unit</th>
<th>Rate/Unit</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>102</td>
<td></td>
<td>Material Sample Pick Ups</td>
<td>15 trips</td>
<td>$83.00/trip</td>
<td>$6,450.00</td>
</tr>
<tr>
<td>507</td>
<td></td>
<td>Tensile Strength #3 - #6 Rebar</td>
<td>4 tests</td>
<td>$71.00/test</td>
<td>$284.00</td>
</tr>
<tr>
<td>610</td>
<td></td>
<td>Bend Test Rebar</td>
<td>4 tests</td>
<td>$43.00/test</td>
<td>$172.00</td>
</tr>
<tr>
<td>818</td>
<td></td>
<td>Base Flat Grout Compression Tests</td>
<td>4 tests</td>
<td>$20.00/test</td>
<td>$80.00</td>
</tr>
<tr>
<td>821</td>
<td></td>
<td>Concrete Cylinder Compression</td>
<td>53 tests</td>
<td>$26.00/test</td>
<td>$1,386.00</td>
</tr>
</tbody>
</table>

### SUBTOTAL FOR MATERIALS LAB TESTING
$3,037.00

### TOTAL FOR SPECIAL INSPECTION AND MATERIALS TESTING SERVICES
$34,758.00
BUDGET ESTIMATE SUMMARY
MATERIALS ENGINEERING SERVICES

<table>
<thead>
<tr>
<th>PH</th>
<th>CODE</th>
<th>Hours/Unit</th>
<th>Rate/Unit</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>OPTIONAL TESTING AND INSPECT.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>139</td>
<td>Floor Flatness Testing (Dip Stick)</td>
<td>hours</td>
<td>@</td>
<td>$200.00/hour</td>
</tr>
<tr>
<td>151</td>
<td>Structural Steel Ultrasonic Testing (San Diego County)</td>
<td>hours</td>
<td>@</td>
<td>$80.00/hour</td>
</tr>
<tr>
<td>152</td>
<td>Structural Steel Shop (Outside San Diego County)</td>
<td>hours</td>
<td>@</td>
<td>By Quota/hour</td>
</tr>
<tr>
<td>153</td>
<td>Structural Steel Shop Ultrasonic Testing (Outside San Diego County)</td>
<td>hours</td>
<td>@</td>
<td>By Quota/hour</td>
</tr>
<tr>
<td>157</td>
<td>Fireproofing Inspection</td>
<td>hours</td>
<td>@</td>
<td>$85.00/hour</td>
</tr>
<tr>
<td>755</td>
<td>Fireproofing Tests, Density/Cohesion</td>
<td>tests</td>
<td>@</td>
<td>$63.00/test</td>
</tr>
</tbody>
</table>

* Assumptions: reinforcing steel will be produced within San Diego County. An estimate of additional costs for test and sampling outside San Diego County will be provided based on upon the location of the supplier.
BUDGET ESTIMATE SUMMARY
PROFESSIONAL SERVICES

<table>
<thead>
<tr>
<th>Total for Geotechnical Observation and Testing Services</th>
<th>$5,256.00</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total for Special Inspection and Materials Testing Services</td>
<td>$34,758.00</td>
</tr>
<tr>
<td>--------------------------------------------------------</td>
<td>-----------</td>
</tr>
<tr>
<td>Total Budget Estimate</td>
<td>$40,014.00</td>
</tr>
</tbody>
</table>

ASSUMPTIONS - GENERAL

1. Construction schedule was not available.
2. Plans and specifications were on hand for this estimate (By ECA Architecture, dated 12-07-2009).
3. This budget estimate reflects realistic amounts of inspection and testing at a Prevailing wage inspection rate.
4. The Client will be invoiced in 4, 6 and 8 hour increments.
5. The hourly rate reflects an anticipated start date of 2010.
6. All work performed outside our scope of service will be invoiced per SCS&T 2010 Schedule of Fees.
7. 3 Concrete cylinders taken for each 50 Cubic Yards.
8. No overtime is scheduled.
9. No weekend work is scheduled.
10. Estimate does not include inspection and testing of site concrete as it is not greater than 2,500 psi.
11. Assumes field welding inspection for approximately 2 weeks.
12. Assumes concrete inspection for approximately 4 weeks.
13. Drawings show a minimum amount of steel welding done in the fabricating shop (at the building entrance only).
14. Fireproofing inspection was called out on the structural notes. However, details are not shown on the Project Manual, architectural and structural drawings. Inspection and testing of this item are included under options.
**Southern California Soil and Testing, Inc.**

Confidential Schedule of Fees for Professional Services
Adjusted Prevailing Wage Rates for - Southwestern College Snack Bar/Café

*Effective January 1, 2010*

<table>
<thead>
<tr>
<th>PROFESSIONAL SERVICES</th>
<th>Standard</th>
<th>SW Cafés</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Engineer/Geologist</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Principal Engineer/Geologist</td>
<td>$167</td>
<td>135</td>
</tr>
<tr>
<td>Senior Engineer/Geologist</td>
<td>$140</td>
<td>125</td>
</tr>
<tr>
<td>Staff Engineer/Geologist</td>
<td>$116</td>
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</tr>
<tr>
<td>Concrete Mix Design Review</td>
<td>$167</td>
<td></td>
</tr>
<tr>
<td>Deposition and Trial Testimony (4-Hour Minimum, with any time over 4 hours billed as 8 hours)</td>
<td>$350</td>
<td></td>
</tr>
<tr>
<td><strong>Technician</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Soils/Materials/QA-QC Supervisor</td>
<td>$115</td>
<td></td>
</tr>
<tr>
<td>Soils Technician</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Materials Technician (ACI)</td>
<td>$96</td>
<td>$85</td>
</tr>
<tr>
<td>QA/QC Technician (Third Party)</td>
<td>$98</td>
<td>$80</td>
</tr>
<tr>
<td>Floor Flatness (Dip Stick) Technician</td>
<td>$96</td>
<td></td>
</tr>
<tr>
<td>Coring - Asphalt, Concrete, Masonry and Gunite</td>
<td>$200</td>
<td></td>
</tr>
<tr>
<td><strong>Certified Deputy Inspection</strong></td>
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<td></td>
</tr>
<tr>
<td>Certified Materials Special Inspector</td>
<td>$93</td>
<td>$85</td>
</tr>
<tr>
<td>Certified Building Inspector</td>
<td>$98</td>
<td></td>
</tr>
<tr>
<td>NDT Technician (UT, MT, DT, VT)</td>
<td>$98</td>
<td>$90</td>
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<tr>
<td>Betch Plant Inspector</td>
<td>$74</td>
<td>$80</td>
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<tr>
<td>OSPHD Inspector A, B</td>
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<tr>
<td>OSPHD Inspector C</td>
<td>$106</td>
<td></td>
</tr>
<tr>
<td>AWS Certified Welding Inspector (Field Welding, Shop Welding, High-Strength Bolting)</td>
<td>$106</td>
<td>$90</td>
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<tr>
<td><strong>Miscellaneous</strong></td>
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</tr>
<tr>
<td>Overtime and Saturday Rate</td>
<td>$1.5 x Regular Hourly Rate</td>
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</tr>
<tr>
<td>Sunday and Nationally Recognized Holiday Rate (including the day after Thanksgiving)</td>
<td>$2 x Regular Hourly Rate</td>
<td></td>
</tr>
<tr>
<td>Minimum Professional Fee</td>
<td>$500/Project</td>
<td></td>
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<tr>
<td>Minimum Field Services Fee</td>
<td>$500/Project</td>
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</tr>
<tr>
<td>Rush Surcharge</td>
<td>Normal rate plus 50%</td>
<td></td>
</tr>
</tbody>
</table>

| **TRAVEL**                              |          |          |
| Personnel                               |          |          |
| Per Diem (variable, depending on location) |          | $80-160/day |
| Sample Pick Up (San Diego, Riverside and San Bernardino Counties) |          | $65      |

| **EQUIPMENT AND MATERIALS**             |          |          |
| Nuclear Gauge                           | Included in Technician Rate |
| Outside Services/Equipment/Materials    | Cost + 20% |
| Generator                               | $55/day  |
| Pachometer                              | $101/mw  |
| Concrete Vapor Emission Kits (ASTM F 1859) | $35/kit |

| **LABORATORY TESTS**                    |          |          |
| Soil And Aggregate                      |          |          |
| Maximum Density, 4-inch mold (ASTM D1557) | $192     |          |
| Maximum Density, 6-inch mold (ASTM D1557) | $212     |          |
| Rock Correction for Maximum Densities   | $25      |          |
| Plasticity Index (ASTM D318)            | $123     |          |
| Hydrometer Analysis (ASTM D423)         | $106     |          |
| Collapse Potential (ASTM D333)          | $105     |          |
| Expansion Index (ASTM D429)             | $170     |          |
| Sieve Analysis (ASTM D422)              | $80      |          |
| Direct Shear, Normal Speed (ASTM D3083) | $200     |          |
| Direct Shear, Slow Speed (ASTM D3080)   | $19      |          |
Laboratory Tests

Soil and Aggregate (cont.)

- Resistance Value, R-Value (Cal 391, ASTM D2944) .............................................. 525
- California Bearing Ratio includes Max Density C (ASTM D1883) ... 594
- Sand Equivalent (Cal 217, ASTM D2219) .................................................. 82
- Corrosivity (incl. pH, resistivity, soluble chlorides and sulfates) ... 180
- Sieve Analysis, Coarse (ASTM C116) ....................................................... 57
- Sieve Analysis, Fine (ASTM C116) ............................................................. 71
- Specific Gravity, Cores (ASTM C127) ......................................................... 66
- Specific Gravity, Fine (ASTM C117) ............................................................ 66
- Durability Index (Cal 227) ......................................................................... 215

Aggregate Concrete

- Heveem – Maximum Bulk Specific Gravity (Cal 398) per plug. $1.28
- Heveem and Stabilometer (Cal 308.266) per plug ................................. 168
- Rice – Maximum Theoretical Specific Gravity (ASTM D2041) ...... 256
- Bulk Specific Gravity, Cores (ASTM D1188) ........................................... 56
- Sieve Analysis Extracted Aggregate (ASTM D444) ...................... 86
- Percent Blumen (ASTM D607) ................................................................. 176
- Marshall Density (ASTM C692) per plug  ............................................. 128
- Marshall Density, Stability and Flow (ASTM D6927) per plug. 168

Additional laboratory testing prices available upon request.

Masonry

- Compressive Strength, Block 8”x 8”x16” (ASTM C14) ............... 550
- Compressive Strength, Prisms 8”x8”x16” or smaller...................... 106
- Compressive Strength, Prisms Larger than 8”x8”x16” ............. 142
- Compressive Strength, Mortar 2”x4”x8” (ASTM C109) ...... 26
- Compressive Strength, Mortar 2”x2” (ASTM C109) .......... 26
- Linear Shrinkage, Block (ASTM C426) ................................. 242

Concrete

- Compressive Strength, Cylinders (ASTM C19) .......................... 526
- Compressive Strength, Core (ASTM C42) ............................................. 57
- Compressive Strength, Shortcrete Panel, 3 cores (ASTM C1146)...... 279
- Splitting Tensile Strength, 6”x12” Cylinder (ASTM C496) .......... 71
- Flexural Strength, 6”x6”x24” Beam (ASTM C78) ......................... 71
- Length Charge, Mortar or Concrete (ASTM C151) ..................... 357

Metals

- Tensile Strength, #3 - #8 Reinforcing Steel (ASTM A615/A706) 571
- Tensile Strength, #9 - #11 (ASTM E8) .................................................. 87
- Bend Test, #3 - #11 Reinforcing Steel (ASTM E8) ..................... 43

Terms and Conditions

All field services will be charged from portal to portal with the following minimum charges:

- A one-hour minimum charge will be applied to materials sampling and sample pick-ups.
- A two-hour show-up charge will be applied to any service canceled after 4:00 PM the previous day.
- A four-hour minimum charge will be applied to all field services.
- A six-hour charge will be applied to all field services requiring between four and six hours of work.
- An eight-hour charge will be applied to all field services requiring between six and eight hours of work.
- Work in excess of eight hours up to twelve hours in a single day will be charged in $90.00 increments at 1.5 times the standard rate.
- Work in excess of twelve hours in a single day will be charged in one-hour increments at 2.0 times the standard rate.
- The Director of Industrial Relations (DIR) may direct periodic increases to the prevailing wage during the duration of this project. SCS&T will increase our hourly rate on the effective date determined by the DIR, by a factor of 1.8 times the hourly increase.

Work performed by field or laboratory personnel outside of normal business hours (6:30 AM – 5:00 PM) will be charged a premium on a case-by-case basis.

Reimbursables: SCS&T reserves the right to charge for services outside of the contract in the form of reimbursables. These items include, but are not limited to the following: personnel, magnetic particle powder, ultrasonic泼剂, concrete cylinder casts, etc. The following are also included: mileage, travel time, equipment rental, administrative time utilized for photocopying, distribution lists, express mailing, archive searches, etc.

Subcontracted services that are included on the Fee Schedule will be charged at those rates. Subcontracted services not included in the Fee Schedule will be charged at cost plus 30 percent. Per Diem charges will be applied to projects outside a 20-mile radius of our office. Mileage will be charged at the rate of 50 cents per mile for distances over 50 miles from the location of dispatch.

Invoices for all services completed or in progress will be submitted bi-monthly. These invoices are due in full upon presentation to the client. Invoices outstanding over 30 days will be considered past due. A finance charge will be computed at the rate of 1.5 percent per month, which is an annual rate of 18 percent, and charged on all past due accounts. If legal action is brought on delinquent accounts, the prevailing party shall be entitled to recover its reasonable attorney’s fees and other costs of collection.

Our professional engineering, geology, and inspection services are performed in accordance with the current standards of practice in the industry. No other warranty or representation, express or implied, is made or intended.

The Director of Industrial Relations (DIR) reserves the right to increase the prevailing wage during the duration of the project. SCS&T will increase our hourly rate on the effective date determined by the DIR, by a factor of 1.8 times the hourly increase.

6260 Riverside Street
San Diego, California 92120
619.246.4321, Toll Free 877.215.4321
www.scs.com

83-740 Citrus Avenue, Suite G
Indio, California 92201
760.775.3983, Toll Free 877.215.4321
www.scs.com

28
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Request for Qualifications (RFQ) No. 113 for
Specialty Inspections and Material Testing for various Prop AA Division
of State Architect (DSA) Projects

RECOMMENDATION

Recommend award of RFQ No. 113 for specialty inspections and materials testing services for
future Proposition AA Projects subjected to DSA approval, and authorize the Superintendent/
President to enter into contract for these services:

- Construction Testing & Engineering, Inc.
  Professional specialty inspection and material testing services for the Student Services
  Remodel project.

- Southern California Soils and Testing, Inc.
  Professional specialty inspection and material testing services for the Snack Bar/Café,
  Photo Lab and Classroom Conversion Buildings 570 & 510, Campus Lighting, and the
  Gotham Road Widening projects.

- Testing Services & Inspection
  Professional specialty inspection and material testing services Building 550 and 560
  Remodel and the National City Higher Education Center projects.

OVERVIEW

Eleven firms responded to RFQ No. 113 to provide specialty testing and inspection services per
Division of State Architect requirements for the remaining Proposition AA projects. Based on
the qualifications and prior experience with DSA and institutional projects, the firms were awarded the projects listed above.

These services will be funded by Proposition AA.

**FISCAL IMPACT/ACCOUNT**

Cost to the District/Account Nos.:
0-45110-718621-000 (Building 330 - Proposition AA Funds)
0-45110-718632-000 (Building 550 - Proposition AA Funds)
0-45110-718633-000 (Building 560 - Proposition AA Funds)
0-45110-718641-000 (Campus Lighting Upgrades – Proposition AA Funds)
0-45110-718642-000 (Gotham Road Widening – Proposition AA Funds)
0-45110-718646-000 (Building 570 – Proposition AA Funds)
0-45110-718647-000 (Building 480 Food Services/Café – Proposition AA Funds)
0-45110-718648-000 (Building 510 – Proposition AA Funds)
0-45110-718649-000 (Student Services Center – Proposition AA Funds)

HAs:as
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of RFQ

Governing Board Meeting Date: June 9, 2010
Award of RFQ No. 113

Title of Bid: Specialty Consultant RFQ No. 113 Award for Remaining Proposition AA Projects for Specialty Inspections and Material Testing for various Prop AA Division of State Architect (DSA) Projects

<table>
<thead>
<tr>
<th>Testing and Inspections Services</th>
<th>Project Engineer</th>
<th>Special Inspections</th>
<th>Material Testing</th>
</tr>
</thead>
<tbody>
<tr>
<td>Construction Testing and Engineering, Inc.</td>
<td>$100</td>
<td>$80</td>
<td>$78</td>
</tr>
<tr>
<td>Testing Services &amp; Inspection</td>
<td>$100</td>
<td>$80</td>
<td>$78</td>
</tr>
<tr>
<td>Southern California Soils and Testing, Inc.</td>
<td>$100</td>
<td>$80</td>
<td>$78</td>
</tr>
</tbody>
</table>

- Bolded text indicates recommended awarding firms.

Rejected Bids:
N/A

Testing and Inspections Services:
11 firms responded to RFQ No. 113 to provide specialty testing and inspection services per Division of State Architect requirements for the remaining Proposition AA projects. Based on the qualifications and prior experience with DSA and institutional projects, the firms were awarded the following projects:

Southern California Soils and Testing
- Food Service Cafeteria
- Photo Lab and Classroom Conversion Buildings 570 & 510
- Gotham Road Widening
- Campus Lighting

Construction Testing & Engineering
- Chemistry Lab Building 330 - HVAC Replacement
- Student Services Center Remodel

Testing Services & Inspection
- Building 550 and 560 Remodel
- National City Higher Education

Henry Amigable, CCM
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Denise Whittaker
               Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
               Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
               Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Whillock Contracting, Inc.,
          Snack Bar/Café Project

RECOMMENDATION

Recommend Ratification of Agreement No. A3011.10, related to Bid No. 159, with Whillock
Contracting, Inc., for demolition and abatement construction services, for the period June 10, 2010 to
August 10, 2010, inclusive, in an amount not to exceed $35,723.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent /
President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of Bid No. 159 on June 9, 2010 and authorized the
Superintendent/President to sign the agreement and any future amendments that occur. Education Code
section 81655 allows the District to delegate authority to staff to execute contracts in advance of final
Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board
after they are executed. This ratification satisfies the Education Code.

The contract with Whillock Contracting, Inc. furnished all equipment, materials and labor necessary for
demolition and abatement services for the Snack Bar/Café project. Whillock Contracting, Inc. has
relevant project experience in similar size, scope, and complexity. This project was funded by
Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $35,723 Cost to the District/Account No.:
0-46210-718647-000 (Building 480 Snack Bar/Café - Proposition AA Funds)

JRB:mik
THIS AGREEMENT, made this 10th day of June, 2010 in the County of San Diego State of California, by and between the Southwestern Community College District, hereinafter called the District, and Whillock Contracting, Inc., hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: Bid No. 159 Snack Bar/Café Demolition and Abatement in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on June 21, 2010, as stated in the District's notice to proceed, as provided in Section A of the Special Conditions. As specified in District's notice to proceed, the work shall be completed within TWENTY (20) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of THIRTY FIVE THOUSAND SEVEN HUNDRED TWENTY THREE AND 00/100 DOLLARS ($35,723), said sum being the total amount of the following amounts stipulated in the bid:

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

- Notice to Contractors Calling for Bids
- Information for Bidders
- Bid, as accepted
- Designation of Subcontractors
- Non-collusion Affidavit
- Agreement
- Performance Bond
- Payment Bond for Public Works
- Contractor's Certificate Regarding Workers' Compensation
- General Conditions and Special Conditions
- Specification Addenda Nos. 1, 2 as issued
- Drawings
- Labor Compliance Program

AGREEMENT 1 OF 2
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR:
Whillock Contracting, Inc.
License No. 572217

By

Its

DISTRICT:
Southwestern Community College
District

By

Raj K. Chopra, Ph.D
Its Superintendent/ President

(Authorities Seal)

Contractors are required by law to be licensed and regulated by the Contractors’ State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento CA 95827
(916)255-3900; http://www2.cscb.ca.gov/
(Business & Professions Code, section 7030)
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of Bid No. 159 — Snack Bar/Café
Bid Package 1 — Demolition and Abatement

RECOMMENDATION

Recommend award of Bid No. 159 Demolition and Abatement to Whillock Contracting, Inc. to provide demolition and abatement services, and authorize the Superintendent/President to enter into contract for these services:

• Whillock Contracting, Inc.
  To furnish all equipment, materials and labor necessary for the complete demolition and abatement of the Snack Bar/Café building, in an amount not to exceed $35,723.

OVERVIEW

On May 12th, 2010 the District received a total of five demolition contractor bids for the referenced project, and based on the bids received, Whillock Contracting, Inc. was the low bidder and is being recommended for award to provide demolition and abatement services. This will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $35,723 cost to the District/Account No. 0-46210-718647-000 (Building 450 Snack Bar/Café - Proposition AA Funds)

HA:as
Southwestern Community College District  
Business, Operations & Facilities Planning  
Recommendation of Award of Bid  

Governing Board Meeting Date: June 09, 2010  
Recommend Award of Bid No. 159  

Title of Bid: Recommend Award of Bid No. 159 – Snack Bar/Café Bid Package 1 - Demolition and Abatement

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Cost</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Whillock Contracting, Inc.</td>
<td>$35,723</td>
<td></td>
</tr>
<tr>
<td>Anton’s Services, Inc.</td>
<td>$37,975</td>
<td></td>
</tr>
<tr>
<td>Ampco Contracting, Inc.</td>
<td>$46,500</td>
<td></td>
</tr>
<tr>
<td>West-Tech Contracting, Inc.</td>
<td>$69,988</td>
<td></td>
</tr>
<tr>
<td>Miller Environmental, Inc.</td>
<td>$89,000</td>
<td></td>
</tr>
</tbody>
</table>

- Bold text indicates recommended awarding firm.

Rejected Bids:

| N/A |  |

Henry Amigable, CCM  
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Fordyce Construction, Inc.
Snack Bar/Café Project

RECOMMENDATION


RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent / President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of Bid No. 171 on August 11, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Fordyce Construction, Inc. for general construction services has begun to provide all equipment, materials and labor necessary and will successfully complete the Snack Bar/Café project. Fordyce Construction, Inc. has relevant project experience in similar size, scope, and complexity. This project has been and will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $3,160,930 Cost to the District/Account No.: 0-46210-718647-000 (Building 480 Snack Bar/Café - Proposition AA Funds)

JRB: mk
THIS AGREEMENT, made this 11th day of August in the County of San Diego, State of California, by and between the Southwestern Community College District, hereinafter called the District, and Fordyce Construction, Inc., hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: Bid No. 171 Snack Bar/Café – Construction Building in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on August 26, 2010, as stated in the District’s Notice to Proceed, as provided in Section A of the Special Conditions. As specified in District’s Notice to Proceed, the work shall be completed within TWO HUNDRED NINETY THREE (293) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of THREE MILLION ONE HUNDRED SIXTY THOUSAND NINE HUNDRED THIRTY AND 00/100 DOLLARS ($3,160,930) said sum being the total amount including an owner allowance as stipulated in the bid form.

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

Notice to Contractors Calling for Bids
Information for Bidders
Bid, as accepted
Designation of Subcontractors
Non-collusion Affidavit
Agreement
Performance Bond
Payment Bond for Public Works
Contractor’s Certificate Regarding Workers’ Compensation
General Conditions and Special Conditions
Specification Addenda Nos. 1, 2, 3, as issued
Drawings
Labor Compliance Program

AGREEMENT 1 OF 2
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR: FORDYCE CONSTRUCTION, INC.,
License No. 608529

By

Its President

DISTRICT: SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By

Raj K. Chopra, Ph.D.
8-13-16

Its Superintendent/President

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No.: A3025.10
Date: 8/11/10

(Corporate Seal)

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento CA 95827
(916)255-3900; http://www2.cscb.ca.gov/
(Business & Professions Code, section 7030)

AGREEMENT 2 OF 2
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Armigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Award of Bid No. 171 – Snack Bar/Café Building Construction

RECOMMENDATION

Recommend award of Bid No. 171 - Snack Bar/Café Building Construction to Fordyce Construction, Inc., to provide general construction service for the Snack Bar/Café project, in the amount of $3,160,930, and authorize the Superintendent/President to enter into contract and sign agreement.

OVERVIEW

On July 7, 2010 the District received a total of seven general contractor bids for the referenced project, and based on the bids received, Fordyce Construction, Inc. was the low bidder and is being recommended for award to provide general construction services. This will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

$3,160,930 cost to the District/Account No. 0-46210-718647-000 (Building 480 Snack Bar/Café - Proposition AA Funds)

HA: vs
Southwestern Community College District  
Business, Operations & Facilities Planning  
Recommendation of Award of Bid  

Governing Board Meeting Date: August 11, 2010  
Recommend Award of Bid No. 171

Title of Bid:  Recommend Award of Bid No. 171 – Snack Bar/Café Building Construction

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>EC Constructors, Inc.</td>
<td>$3,096,361</td>
</tr>
<tr>
<td>Northcut Construction, Inc.</td>
<td>$3,160,930</td>
</tr>
<tr>
<td>Soltek Pacific Construction Company</td>
<td>$3,309,783</td>
</tr>
<tr>
<td>Har Construction</td>
<td>$3,456,000</td>
</tr>
<tr>
<td>The Augustine Construction Company</td>
<td>$3,707,988</td>
</tr>
<tr>
<td>Webcor Construction</td>
<td>$3,714,539</td>
</tr>
<tr>
<td>Riha Construction</td>
<td>$3,716,000</td>
</tr>
</tbody>
</table>

Highlighted cell indicates recommended awarding firm.

Rejected Bids:

| EC Constructors, Inc.                      | $3,096,361   |

Low bidder EC Constructors, Inc., withdrew their bid of $3,096,361 due to an clerical error made on their behalf. A letter dated 07/8/2010 is included as an enclosure.

Henry Amigo, CCM  
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with G.A. Abell, Inc.,
dba Precision Electric Company
Campus Lighting Upgrades Project

RECOMMENDATION

Recommend Ratification of Agreement No. A3024.10, related to Bid No. 161, with G.A. Abell, Inc., dba Precision Electric Company, for electrical construction services, for the period August 11, 2010 to November 2, 2010, inclusive, in an amount not to exceed $182,100.

RATIONAL FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of Bid No. 161 on August 11, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with G.A. Abell, Inc., dba Precision Electric Company furnished all equipment, materials and labor necessary for the electrical construction services for the Campus Lighting Upgrades project. G.A. Abell, Inc., dba Precision Electric Company has relevant project experience in similar size, scope, and complexity. This was funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

NTE $182,100 Cost to the District/Account No.:
0-46210-718652-000 (Campus Lighting Upgrades Project - Proposition AA Funds)

JRB:mk
THIS AGREEMENT, made this 11th day of August in the County of San Diego State of California, by and between the Southwestern Community College District, hereinafter called the District, and G.A. Abell, Inc. dba Precision Electric Co., hereinafter called the Contractor,

WITNESSETH that the District and the Contractor for the considerations stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK. The Contractor shall perform within the time stipulated the contract as herein defined, and shall provide all labor, materials, tools, utility services, and transportation to complete in a workmanlike manner all of the work required in connection with the following titled project: Bid No. 161 Campus Lighting Upgrades in strict compliance with the contract documents as specified in Article 4 below.

ARTICLE 2 - TIME FOR COMPLETION. (a) The work shall be commenced on August 26, 2010, as stated in the District's Notice to Proceed, as provided in Section A of the Special Conditions. As specified in District's Notice to Proceed, the work shall be completed within SIXTY-EIGHT (68) calendar days from and after the date stated in such notice, which shall include ZERO (0) working days for normal bad weather, taking into consideration the seasonal weather for the time when construction will be undertaken.

(b) In entering into this Agreement, Contractor acknowledges and agrees that the construction duration stipulated herein is adequate and reasonable for the size and scope of the project.

ARTICLE 3 - CONTRACT PRICE. The District shall pay to the Contractor as full consideration for the faithful performance of the contract, subject to any additions or deductions as provided in the contract documents, and including any applicable sales, use or other taxes or costs, the sum of ONE HUNDRED EIGHTY TWO THOUSAND ONE HUNDRED AND 00/100 DOLLARS ($182,100), said sum being the total amount including an owner allowance as stipulated in the bid form.

ARTICLE 4 - COMPONENT PARTS OF THE CONTRACT. The contract entered into by this Agreement consists of the following contract documents (referred to herein as the contract or contract documents), all of which are component parts of the contract as if herein set out in full or attached hereto:

- Notice to Contractors Calling for Bids
- Information for Bidders
- Bid, as accepted
- Designation of Subcontractors
- Non-collusion Affidavit
- Agreement
- Performance Bond
- Payment Bond for Public Works
- Contractor's Certificate Regarding Workers' Compensation
- General Conditions and Special Conditions
- Specification Addenda Nos. 1, as issued
- Drawings
- Labor Compliance Program (if applicable)
All of the above-named contract documents are intended to be complementary. Work required by one of the above-named contract documents and not by others shall be done as if required by all. This agreement shall supersede any prior agreement of the parties.

IN WITNESS WHEREOF, this Agreement has been duly executed by the above-named parties, on the day and year first above written.

CONTRACTOR:
G.A Abell, Inc. dba Precision Electric Co., License No. 534116

By

ITS

8/17/10

DISTRICT:
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By
Raj K. Chopra, Ph.D.  8-12-12

ITS Superintendent/President

Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board
9821 Business Park Drive
Sacramento CA 95827
(916)255-3900; http://www2.cscb.ca.gov
(Business & Professions Code, section 7030)

AGREEMENT 2 OF 2
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Award of Bid No. 161 – Campus Lighting Upgrades

RECOMMENDATION

Recommend award of Bid No. 161 Campus Lighting Upgrades to G.A. Abell, Inc., dba Precision Electric Co., to provide construction services for the Campus Lighting Upgrades project, in the amount of $182,100, and authorize the Superintendent/ President to enter into contract and to sign agreement.

OVERVIEW

On July 15, 2010 the District received a total of four contractor bids for the referenced project, and based on the bids received, G.A Abell, Inc., dba Precision Electric Co. was the low bidder and is being recommended for award to provide general construction services. This will be funded by Proposition AA.

FISCAL IMPACT/ACCOUNT

$182,100 cost to the District/Account No. 0-66210-718652-000 (Campus Lighting Project - Proposition AA Funds)

HA:vs
**Southwestern Community College District**  
**Business, Operations & Facilities Planning**  
**Recommendation of Award of Bid**

**Governing Board Meeting Date:** August 11, 2010

**Recommend Award of Bid No. 161**

**Title of Bid:** Recommend Award of Bid No. 161 – Campus Lighting Upgrades

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>CAAB Building Inc.</td>
<td>$182,000</td>
</tr>
<tr>
<td>Ensley Electric, Inc.</td>
<td>$219,000</td>
</tr>
<tr>
<td>3-D Enterprises, Inc.</td>
<td>$226,000</td>
</tr>
<tr>
<td>R.L Electric, Inc.</td>
<td>$344,000</td>
</tr>
</tbody>
</table>

- Highlighted cell indicates recommended awarding firm.

**Rejected Bids:**

| N/A                                  |

Henry Ajigbile, CCM  
Board Program Director
MEMORANDUM

TO:       Members of the Governing Board  
Southwestern Community College District

APPROVED BY:   Denise Whittaker  
Interim Superintendent/President

SUBMITTED BY:  Robert J. Temple  
Interim Vice President for Business and Financial Affairs

INITIATED BY:  John R. Brown, P.E.  
Director of Facilities, Operations, and Planning


RECOMMENDATION

Recommend Ratification of Agreement No. A3169.10, related to RFP 109, with M. Arthur Gensler Jr. & Associates, Inc., for architectural design services, for the period November 1, 2010 to June 30, 2013, inclusive, in an amount not to exceed $1,785,000 plus $69,300 for direct expenses for a total contract amount not to exceed $1,854,300.

RATIONAL FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent / President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 109 and authorized the Superintendent/President on April 20, 2010 to enter into a contract with M. Arthur Gensler Jr. & Associates, Inc. to provide architectural services for the Central Plant project at a fee equal to a maximum of 6.00% of the cost of construction, estimated at Twenty-Six Million Dollars plus normal and customary reimbursables and services.

The Governing Board subsequently on July 14, 2010 modified the award of RFP 109 pertaining to Gensler by adding the Replacement of the DeVore Stadium Field House to the Central Plant project at the same percentage fee.
The attached contract was signed by the Superintendent/President on November 24, 2010. The contract with M. Arthur Gensler Jr. & Associates, Inc. provides professional architectural design services and construction documents for the Central Plant, Field House, Replacement of DeVore Stadium Field House, and adds synthetic field designs for additional fields. Education Code sections 81655 allow the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

M. Arthur Gensler Jr. & Associates, Inc. has relevant project experience in similar size, scope, and complexity. The contract base fee is based on 6% of the revised estimated cost of construction ($29,750,000). This includes the Central Plant and the additional estimated construction cost for the Replacement of the DeVore Stadium Field House, plus $69,300 for customary reimbursable items. This project will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $1,854,300 Cost to the District/Account No.:
5-45110-718734-970 (Building Central Plant - Prop R Funds)
5-46210-718722-970 (Field House and DeVore Stadium Improvements - Prop R Funds)

JRB:mk
CONSTRUCTION PLANNING & DESIGN SERVICES
FOR REPLACEMENT OF DEVORE STADIUM FIELD HOUSE,
PLAYING SURFACES AND CENTRAL PLANT
BY AND BETWEEN
ARCHITECT AND DISTRICT

1. Parties and Date

This Agreement is made and entered into this 1st day of November, 2010, by and
between the Southwestern Community College District, a public school DISTRICT organized
under the laws of the State of California with its principal place of business at 900 Otay Lakes
Road, Chula Vista, CA 91910 ("DISTRICT") and M. ARTHUR GENSLER JR. &
ASSOCIATES, INC., with its principal place of business at 225 Broadway, Suite 1600, San
Diego, CA 92101 ("Architect"). DISTRICT and Architect are sometimes individually referred to
as "Party" and collectively as "Parties" in this Agreement.

2. Recitals

2.1 The DISTRICT is a public agency school DISTRICT organized under the laws of
the State of California, with power to contract for the services provided for herein.

2.2 The DISTRICT intends to receive proposals for: construction of the Replacement
of Devore Stadium Field House and Central Plant.

2.3 DISTRICT requires the services of a duly qualified and licensed Architect to
perform the services required by this Agreement. Architect represents that it is aware of the
DISTRICT's plans with respect to the Project.

2.4 Architect warrants that it is fully licensed, qualified, and willing to perform the
services required by this Agreement; provided, however, that if Architect is a corporation or
other organization, the Project Architect designated pursuant to Section 3.2, and not the Architect
itself, shall be fully licensed to practice as an architect in the State of California.

3. Terms

3.1 Employment of Architect. Architect promises and agrees to furnish to
DISTRICT all labor, materials, tools, equipment, services, and incidental and customary work
necessary to fully and adequately supply the professional architectural and related services
necessary for the full and adequate completion of the Project consistent with the provisions of
this Agreement (hereinafter referred to as "Services"). Each Service will be further defined by
individual task orders listed in Exhibit 'A'. The Services are more particularly described
throughout this Agreement, including Exhibit "A" attached hereto and incorporated herein by
reference. All Services shall be subject to, and performed in accordance with, this Agreement,
any exhibits attached hereto and incorporated herein by reference, and all applicable local, state
and federal laws, rules and regulations as required by the Standard of Care set forth in Section

Gensler
Southwestern College Replacement of Devore Stadium
Field House, Playing Surfaces, and Central Plant

Initial Each Page

ARCHITECT

DISTRICT
3.4.1. All Services performed by Architect shall be subject to the approval of the DISTRICT, which approval shall not be unreasonably withheld.

3.2 **Project Architect; Key Personnel.** Architect shall name a specific person to act as Project Architect, subject to the approval of DISTRICT. Architect hereby designates

[Name and License Number]

... to act as the Project Architect for the Project. The Project Architect shall: (1) maintain oversight of the Project in accordance with the Standard of Care; (2) have full authority to represent and act on behalf of the Architect for all purposes under this Agreement; (3) supervise and direct the Services using his or her professional skill and attention; (4) be responsible for the means, methods, techniques, sequences and procedures used for the Services (with no implication or assumption made by the foregoing that the Project Architect bears any responsibility for, control over, or charge of, construction means, methods, schedules, or delays, or for safety precautions and programs in connection with construction of the Project, all of which are and shall remain the responsibility of the Contractor); (5) adequately coordinate all portions of the Services in accordance with the Standard of Care; and (6) act as principal contact with DISTRICT and all contractors, consultants, engineers and inspectors on the Project. Any change in the Project Architect shall be subject to the DISTRICT's prior written approval, which approval shall not be unreasonably withheld. The new Project Architect shall be of at least equal competence as the prior Project Architect. In the event that DISTRICT and Architect cannot agree as to the substitution of a new Project Architect, DISTRICT shall be entitled to terminate this Agreement for convenience.

In addition to the Project Architect, Architect has represented to the DISTRICT that certain additional key personnel, engineers and consultants will perform the Services under this Agreement. Should one or more of such personnel, engineers or consultants become unavailable, Architect may substitute others of at least equal competence upon written approval of the DISTRICT. In the event that DISTRICT and Architect cannot agree as to the substitution of key personnel, engineers or consultants, DISTRICT shall be entitled to terminate this Agreement for convenience. As discussed below, any personnel, engineers or consultants who fail or refuse to perform the Services in a manner acceptable to the DISTRICT, or who are determined by the DISTRICT to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Architect at the request of the DISTRICT. The key additional personnel, engineers and consultants for performance of this Agreement are as follows:

[List on the following page]

Gensler
Southwestern College Replacement of DeVore Stadium
Field House, Playing Surfaces, and Central Plant

Initial Each Page:

ARCHITECT

DISTRICT
Architectural Team Members and License Numbers for Each

Name ___________________________________________ License No. ___________________________________________
1. Thomas Paul Heffernan, Architect C24940
2. Bryce Roth Osborn, Architect C31155
3. James Kevin Heinly, Architect C26830
4. Stacy Cannon, Architect C31540
5. Nathan Ouren, Architect MN 43639, ND 1371
6. Chris D Deck, Mechanical Engineer CA30087
7. Scott Johnson, Mechanical Engineer CA 32413
8. Andrew Spurlock, Landscape Architect CA 1865
9. Brian K. Oliver, Civil Engineer CA 45045
10. Jeffrey Allen Crosier, Structural Engineer CA 3525

3.3 Hiring of Consultants and Personnel

3.3.1 Right to Hire or Employ. Architect shall have the option, unless
DISTRICT objects in writing after notice, to employ at its expense architects, engineers, experts
or other consultants qualified and licensed to render services in connection with the planning
and/or administration of the Project, and to delegate to them such duties as Architect may
discharge without relieving Architect from administrative or other responsibility under this
Agreement. Architect shall be responsible for the coordination and cooperation of Architect's
architects, engineers, experts or other consultants. All consultants, including changes in
consultants, shall be subject to approval by DISTRICT in its sole and reasonable discretion.
Architect shall notify DISTRICT of the identity of all consultants at least fourteen (14) days
prior to their commencement of work in order to allow DISTRICT time to review their
qualifications and decline consent to their participation on the Project if deemed necessary by
DISTRICT in its sole and reasonable discretion.

3.3.2 Qualification and License. All architects, engineers, experts and other
consultants retained by Architect in performance of this Agreement shall be qualified to perform
the Services assigned to them, and shall be licensed to practice in their respective professions,
where required by law.

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3.3.3 **Standards and Insurance.** All architects, engineers, experts and other consultants hired by Architect shall be required to meet all of the same standards and insurance requirements set forth in this Agreement, unless other standards or requirements are approved by the DISTRICT in writing. Unless changes are approved in writing by the DISTRICT, Architect's agreements with its consultants shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.3.4 **Assignments or Staff Changes.** Architect shall promptly obtain written DISTRICT approval of any assignment, reassignment or replacement of such architects, engineers, experts and consultants, or of other staff changes of key personnel working on the Project. As provided in the Agreement, any changes in Architect's consultants and key personnel shall be subject to approval by DISTRICT, with the acknowledgement and agreement that the foregoing shall not imply or create a right of approval on behalf of the DISTRICT over employment decisions, including cessation of employment, of or relating to Architect's employees.

3.3.5 **Draftsmen and Clerical Support.** Draftsmen and clerical personnel shall be retained by Architect at Architect's sole expense.

3.4 **Standard of Care: Performance of Employees.**

3.4.1 **Standard of Care.** Architect shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals qualified to perform the Services in the same discipline in the State of California, and shall be responsible to DISTRICT for any damages to DISTRICT and delays to the Project due to negligence in adhering to this Standard of Care, including as specified in the indemnification provision of this Agreement. Without limiting the foregoing, Architect shall be fully responsible to the DISTRICT for any increased costs incurred by the DISTRICT as a result of Architect's or its consultants' negligent errors, acts or omissions in the design of the Project. Architect represents and maintains that it is skilled in the professional calling necessary to perform the Services. Architect represents and covenants that all of its employees, architects, engineers, experts and other consultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Architect represents that it, its employees, architects, engineers, experts and other consultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services assigned to or rendered by them, or that the companies or other entities employing such employees and individuals have same, and that such licenses and approvals shall be maintained throughout the term of this Agreement.

3.4.2 **Performance of Employees.** Any employee or consultant who is reasonably determined by the DISTRICT to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee or consultant who fails or refuses to perform the Services in a manner acceptable to the DISTRICT, shall be promptly removed from the Project by the Architect and shall not be re-employed to perform any of the Services or to work on the Project.
3.5 Laws and Regulations.

3.5.1 Knowledge and Compliance. In accordance with the Standard of Care, Architect shall keep itself informed of and in compliance with prevailing professional interpretations of applicable local, state and federal laws, rules and regulations in any manner affecting the performance of the Services or the Project, and shall give all notices required of the Architect by law. Architect shall be liable, pursuant to the standard of care and indemnification provisions of this Agreement, for all violations of such laws and regulations in connection with its Services. If the Architect performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the DISTRICT, Architect shall be responsible for all costs to the extent caused by and resulting from Architect’s breach of the Standard of Care. Architect shall defend, indemnify and hold DISTRICT, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations as described in Section 3.16 herein.

3.5.2 Drawings and Specifications. Architect shall cause the drawings and specifications provided in connection with the Services to conform in accordance with the Standard of Care to applicable requirements of federal, state and local laws, rules and regulations, including, but not limited to, the California Building Code, the California Education Code, Titles 19, 21 and 24 of the California Code of Regulations, and any requirements of the Division of State Architect (including structural safety, fire/life safety and access compliance section), the State Department of Education and the California Department of General Services, in effect as of the time the drawings and specifications are prepared or revised during the latest phase of the Services described in Exhibit "A" attached hereto. Any significant revisions made necessary by changes in such laws, rules and regulations after this time, which were not known or reasonably should not have been known, by Architect may be compensated as Additional Services. Architect shall cause the necessary copies of such drawings and specifications to be filed with any governmental bodies with approval jurisdiction over the Project, in accordance with the Services described in Exhibit "A" attached hereto.

3.5.3 Americans with Disabilities Act. Architect will use its professional efforts to interpret all applicable federal, state and local laws, rules and regulations with respect to access, including those of the Americans with Disabilities Act ("ADA"). Architect shall inform DISTRICT of the existence of inconsistencies of which it is aware or reasonably should be aware between federal and state accessibility laws, rules and regulations, as well as any other issues which are subject to conflicting interpretations of the law, and shall provide DISTRICT with its interpretation of such inconsistencies and conflicting interpretations. Unless Architect brings such inconsistencies and conflicting interpretations to the attention of the DISTRICT and requests DISTRICT’s direction on how to proceed, the Architect's interpretation of such inconsistencies and conflicting interpretations shall be the sole responsibility and liability of Architect, and the Architect shall correct all plans, specifications and other documents prepared for the Project at no additional cost if its interpretations are shown to be incorrect per the Standard of Care. If Architect brings such inconsistencies and conflicting interpretations to the attention of the DISTRICT and request's DISTRICT's direction on how to proceed, Architect

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shall not be responsible to the DISTRICT pursuant to the indemnification provision of this Agreement. DISTRICT acknowledges that the requirements of the federal and state accessibility laws are subject to various and possibly contradictory interpretations, and that the Architect cannot warrant or guarantee that its interpretation will be correct. Architect will adhere to the Standard of Care provided for in this Agreement and will use its reasonable professional efforts and judgment in making its interpretations.

3.5.4 **Permits, Approvals and Authorizations.** Architect shall provide DISTRICT with a list of all permits, approvals or other authorizations required for the Project from all federal, state or local governmental bodies with approval jurisdiction over the Project. Architect shall then assist the DISTRICT in obtaining all such permits, approvals and other authorizations. The costs of such permits, approvals and other authorizations shall be paid by the DISTRICT.

3.6 **Independent Contractor.** DISTRICT retains Architect on an independent contractor basis and Architect is not an employee of DISTRICT. Architect is not an employee for state tax, federal tax or any other purpose, and is not entitled to the rights or benefits afforded to DISTRICT's employees. Any additional personnel performing the Services under this Agreement on behalf of Architect shall also not be employees of DISTRICT, and shall at all times be under Architect's exclusive direction and control. Architect shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Architect shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

3.7 **Schedule of Services.**

3.7.1 **Timely Performance Standard.** Architect shall perform all Services hereunder as expeditiously as is consistent with professional skill and care, as well as the orderly progress of the Project work so as not to be the cause, in whole or in part, of delays in the completion of the Project or in the achievement of any Project milestones, as provided herein. Specifically, Architect shall perform its Services so as to allow for the full and adequate completion of the Project within the time required by the DISTRICT and within any completion schedules adopted for the Project. Architect agrees to coordinate with DISTRICT's staff, contractors and consultants in the performance of the Services, and shall be available to DISTRICT's staff, contractors and consultants at all reasonable times.

3.7.2 **Performance Schedule.** Architect shall prepare an estimated time schedule for the performance of Architect's Services, including required elements of paragraph 3.5.4, to be adjusted as the Project proceeds. Such schedule shall be subject to the DISTRICT's review and approval, which approval shall not be unreasonably withheld, and shall include allowances for periods of time required for DISTRICT's review and approval of submissions, and for approvals of authorities having jurisdiction over Project approval and funding. If DISTRICT and Architect cannot mutually agree on a performance schedule, DISTRICT shall have the authority to immediately terminate this Agreement for convenience. The schedule shall

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not be exceeded by Architect, without the prior written approval of DISTRICT, but for events of Force Majeure, Excusable Delays per Section 3.7.3 below or other causes beyond the reasonable control of Architect, in the event of which the schedule may equitably adjusted as reasonably determined by the DISTRICT, with input from Architect. If the Architect's Services are not completed within the time provided by the agreed upon performance schedule, or any milestones established therein, it is understood, acknowledged and agreed that the DISTRICT will suffer damage for which the Architect will be responsible pursuant to the indemnification provision of this Agreement.

3.7.3 **Excusable Delays.** Any delays in Architect's work caused by the following shall be added to the time for completion of any obligations of Architect: (1) the sole actions or failure to act of DISTRICT or its employees; (2) the actions of those in direct contractual relationship not changed by the designer with DISTRICT, except those under this contract; (3) the actions of any governmental agency having jurisdiction over the Project; (4) the actions of any parties not within the reasonable control of the Architect; and (5) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of Architect. Neither the DISTRICT nor the Architect shall be liable for damages, liquidated or otherwise, to the other on account of such excusable delays.

3.7.4 **Request for Excusable Delay Credit.** The Architect shall, with reasonable promptness (e.g., within ten (10) calendar days of any excusable delay), notify the DISTRICT in writing of the causes of delay. DISTRICT will then ascertain the facts and the extent of the delay, and grant an extension of time for completing the Services when, in its reasonable, good faith judgment, the findings of fact justify such an extension. The DISTRICT's findings of fact thereon shall be final and conclusive on the parties. Extensions of time shall apply only to that portion of the Services affected by the delay and shall not apply to other portions of the Services not so affected. The sole remedy of Architect for extensions of time shall be an extension of the performance time at no cost to the DISTRICT. If Additional Services are required as a result of an excusable delay, the parties shall mutually agree thereto pursuant to the Additional Services provision of this Agreement. Should Architect make an application for an extension of time, Architect shall submit evidence that the insurance policies required by this Agreement remain in effect during the requested additional period of time.

3.8 **Architect Services.** Architect shall fully and adequately complete the Services described in this Agreement and in Exhibit "A" attached hereto and incorporated herein by reference.

3.9 **Project Land and/or Geotechnical Engineering Survey.** If required pursuant to the scope of the Project, the Architect shall reasonably advise and assist the DISTRICT with its hiring or engagement of a land survey of the Project site prepared by a registered surveyor or civil engineer, any other record documents which shall indicate existing structures, land features, improvements, sewer, water, gas, electrical and utility lines, topographical information and boundary dimensions of the site, and any other such pertinent information. If required pursuant to the scope of the Project, the Architect shall reasonably advise and assist the DISTRICT with its hiring or engagement of a geotechnical engineering (soil) survey including but not limited to

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soil borings of the Project site prepared by a registered geotechnical or civil engineer, any other record documents which shall indicate existing soils conditions, foundation designs and recommendations for structures and land features, and any other pertinent information per Title 24 and the building code.

3.9.1 Testing. Architect shall, as aforesaid, reasonably advise and assist the DISTRICT in its retention of any consultant(s) to conduct soils, geological or other tests required for proper design and inspection of the Project, and furnish such surveys, borings, test pits, and other tests as may be necessary to reveal conditions of the site which must be known to determine soil condition or to ensure the proper development of the required drawings and specifications.

3.10 Additional Architect Services. At DISTRICT’s request, Architect may be asked to perform in-scope services not otherwise included in this Agreement, not included within the basic services listed in Exhibit "A" attached hereto, and/or not customarily furnished in accordance with generally accepted architectural practice. As used herein, "Additional Services" mean: (1) any work which is determined by DISTRICT to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary for the Architect to perform at the execution of this Agreement; or (2) any work listed as Additional Services in Exhibit "A" attached hereto. Architect shall not perform, nor be compensated for, Additional Services without prior written authorization from DISTRICT and without an agreement between the DISTRICT and Architect as to the compensation to be paid for such services. DISTRICT shall pay Architect for any approved Additional Services, pursuant to the compensation provisions herein, so long as such services are not made necessary through the fault of Architect pursuant to the indemnification provision of this Agreement. Such Additional Services shall not include any redesign or revisions to drawings, specifications or other documents when such revisions are necessary in order to bring such documents into compliance with applicable laws, rules, regulations or codes of which Architect was aware or should have been aware pursuant to the laws and regulations provision of this Agreement above, but any redesign or revision that is contrary to or inconsistent with previous approvals, decisions and directions of the DISTRICT shall be Additional Services, with compensation therefor as provided herein or as otherwise reasonably determined by the Parties.

3.11 DISTRICT Responsibilities. In addition to those responsibilities of the DISTRICT expressly referenced or implied above, DISTRICT’s responsibilities shall include the following:

3.11.1 Data and Information. DISTRICT shall make available to Architect all necessary data and information concerning the purpose and requirements of the Project, including scheduling and budget limitations, objectives, constraints and criteria. As part of the budget limitation information, the DISTRICT shall provide the Architect with a preliminary construction budget ("DISTRICT's Preliminary Construction Budget").

3.11.2 Inspector of Record. Appoint and pay, upon mutual agreement with Architect, an Inspector of Record as provided by state law. The Inspector of Record shall be qualified and approved by Architect and by the Division of State Architect, shall be under

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direction of the Architect, and shall be responsible to, and act in accordance with, the policies of DISTRICT and Title 24. The Inspector of Record shall be compensated by the DISTRICT and shall be under direct contract with the DISTRICT. The construction administration by Architect and its engineers or other consultants shall complement the continuous personal supervision of the Inspector of Record.

3.11.3 **Bid Phase.** Distribute construction documents to bidders and conduct the opening and review of bids for the Project.

3.11.4 **Testing.** Retain consultant(s) to conduct HAZMAT, chemical, mechanical, or other tests required for proper design and inspection of the Project to ensure the proper development of the required drawings and specifications.

3.11.5 **Required Inspections and Tests.** Retain consultant(s) to conduct materials testing and inspection, as required by Title 21 of the California Code of Regulations, or to conduct any other environmental or hazardous materials testing and inspection pursuant to any other applicable laws, rules or regulations. Provide test results to the Architect during the course of construction.

3.11.6 **Fees of Reviewing or Licensing Agencies.** Directly pay or reimburse the payment of all fees directly related to this Project as required by any reviewing or licensing agency, or other agency having approval jurisdiction over the Project.

3.11.7 **DISTRICT's Representative.** Designate a person to act as its representative for the performance of this Agreement ("DISTRICT's Representative"). The DISTRICT's Representative shall be authorized to act as liaison between Architect and DISTRICT in the administration of this Agreement and the Construction Documents, and shall have the power to act on behalf of the DISTRICT for all purposes under this Agreement. Such person shall assist Architect in observing construction of the Project and participating in the preparation of the Punch List Items required by Exhibit "A" attached hereto. DISTRICT may designate new and/or different individuals to act as DISTRICT's Representative from time to time. The DISTRICT's Representative shall render decisions in a timely manner so as to avoid unreasonable delay in the orderly and sequential progress of the Services, as provided in the excusable delay provisions of this Agreement above.

3.11.8 **Review and Approved Documents.** Review all documents submitted by Architect, including change orders and other matters requiring approval by the DISTRICT's Governing Board or other officials. DISTRICT shall advise Architect of decisions pertaining to such documents within a reasonable time after submission, so as not to cause unreasonable delay as provided in the excusable delay provisions of this Agreement above.

3.12 **Compensation.**

3.12.1 **Architect's Compensation for Basic Services.** Subject to adjustment under Exhibit "B" attached hereto, DISTRICT shall pay to Architect, for the performance of all Services rendered under this Agreement, the total amount of ONE MILLION SEVEN

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HUNDRED EIGHTY FIVE THOUSAND DOLLARS ($1,785,000) PLUS SIXTY NINE THOUSAND THREE HUNDRED DOLLARS ($69,300) FOR DIRECT EXPENSES ("Total Compensation"). This Total Compensation amount of ONE MILLION EIGHT HUNDRED FIFTY FOUR THOUSAND THREE HUNDRED DOLLARS ($1,854,300) shall be based upon the scope of services in Exhibit "A" and task order(s) in Exhibit "B" and incorporated herein by reference. The Total Compensation, as may be adjusted upon mutual agreement pursuant to Exhibits "A", "B", and "D" attached hereto shall constitute complete and adequate payment for the Services provided under this Agreement.

3.12.2 Payment for Additional Services. Additional Services may be authorized pursuant to the applicable provisions of this Agreement. If authorized, such Additional Services will be compensated at a flat rate or not to exceed fee based upon hourly rates in Exhibit "C" as mutually agreed upon by the parties. Architect shall be paid for Additional Services, as defined by this Agreement, so long as they have been approved in advance by the DISTRICT. If DISTRICT requires Architect to hire consultants to perform any Additional Services, Architect shall be compensated therefore at the rates and in the manner set forth in Exhibit "C" attached hereto and incorporated herein by reference, unless a flat rate or some other form of compensation is mutually agreed upon by the parties. DISTRICT shall have the authority to review and approve the rates of any such consultants. In addition, Architect shall be reimbursed for any expenses incurred by the Architect or consultants pursuant to the terms and conditions of Section 3.12.3.

3.12.3 Reimbursable Expenses. Reimbursable expenses are in addition to compensation for the Services and Additional Services. Architect shall not be reimbursed for any expenses unless authorized in writing by DISTRICT, which approval may be evidenced by inclusion in Exhibit "C" attached hereto. Such reimbursable expenses shall include only those expenses which are reasonably and necessarily incurred by Architect in the interest of the Project. Architect shall be required to acquire prior written consent in order to obtain reimbursement for the following: (1) extraordinary transportation expenses incurred in connection with the Project; (2) out-of-town travel expenses incurred in connection with the Project; (3) fees paid for securing approval of authorities having jurisdiction over the Project; (4) bid document duplication costs in excess of the numbers listed in Exhibit "A"; and (5) other costs, fees and expenses.

3.12.4 Payment to Architect. Architect's compensation and reimbursable expenses shall be paid by DISTRICT to Architect no more often than monthly. Such periodic payments shall be made based upon received deliverables of work completed and the compensation rates indicated in Exhibit "C" attached hereto and incorporated herein by reference. In order to receive payment, Architect shall present to DISTRICT an itemized statement which indicates Services completed and the amount to be paid. The statement shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement, as well as those expenses for which reimbursement is requested for that statement period. DISTRICT shall, within thirty (30) days of receiving such statement, review the statement and pay all

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approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the parties in a mutually agreeable manner.

Payments made for Additional Services shall be made in installments in such other manner as the parties shall specify when such services are agreed upon, and in accordance with any authorized fee or rate schedule. In order to receive payment, Architect shall present to DISTRICT an itemized statement which indicates the Additional Services completed, and the amount to be paid. The statement shall describe the amount of Additional Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. DISTRICT shall, within thirty (30) days of receiving such statement, review the statement and pay all approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the parties in a mutually agreeable manner.

Upon cancellation or termination of this Agreement, Architect shall be compensated as set forth in the termination provision herein.

3.12.5 Withholding Payment to Architect. The DISTRICT may withhold payment, in whole or in part, to the extent reasonably necessary to protect the DISTRICT from claims, demands, causes of action, costs, expenses, liabilities, losses, damages, or injuries of any kind to the extent arising out of or caused by the negligence, recklessness or willful misconduct protected under the indemnification provisions of this Agreement. Failure by DISTRICT to deduct any sums from a progress payment shall not constitute a waiver of the DISTRICT's right to such sums. The DISTRICT may keep any moneys which would otherwise be payable at any time hereunder and apply the same, or so much as may be necessary therefor, to the payment of any expenses, losses, or damages incurred by the DISTRICT for which Architect is liable under the Agreement or state law. Payments to the Architect for compensation and reimbursable expenses due shall not be contingent on the construction, completion or ultimate success of the Project. Payment to the Architect shall not be withheld, postponed, or made contingent upon receipt by the DISTRICT of offsetting reimbursement or credit from parties not within the Architect's reasonable control. The DISTRICT shall provide Architect with no less than fifteen (15) days written notice prior to any withholding intended to be taken by the DISTRICT hereunder, which notice shall provide in detail an explanation of the basis or cause for the withholding. Architect shall be allowed opportunity to effectuate a cure or remedy to the basis or cause for the intended withholding set forth in the DISTRICT's notice, within the ten (10) day period, to the reasonable satisfaction of the DISTRICT.

3.12.6 Prevailing Wages. Architect is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is $1,000 or more, Architect agrees to fully comply with and to require its consultants to fully comply with such Prevailing Wage Laws. DISTRICT shall provide

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Architect with a copy of the prevailing rates of per diem wages in effect at the commencement of
this Agreement. Architect shall make copies of the prevailing rates of per diem wages for each
craft, classification or type of worker needed to execute the Services available to interested
parties upon request, and shall post copies at the Architect's principal place of business and at the
Project site. Architect shall defend, indemnify and hold the DISTRICT, its elected officials,
officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or
interest arising out of any failure or alleged failure of the Architect or its consultants to comply
with the Prevailing Wage Laws.

3.12.7 Labor Compliance Program. Pursuant to Labor Code section 1771.7,
the DISTRICT has implemented, staffed, and shall enforce a Labor Compliance Program
("LCP"). The Architect shall be required to comply with all the requirements of the DISTRICT's
LCP and all applicable provisions of the California Labor Code.

3.13 Contract Term.

3.13.1 Term. The term of this Agreement shall be from November 2, 2010 until
June 30, 2013 or until one of the following occurs: (i) the Project(s) is terminated or suspended
by the District prior to completion; or (ii) the District terminates this Agreement pursuant to
paragraph 3.13 herein.

3.13.2 Notice to Proceed. Architect shall not proceed with performance of any
Services under this Agreement unless and until the DISTRICT provides a written notice to
proceed.

3.14 Termination, Suspension and Abandonment.

3.14.1 DISTRICT's Termination for Convenience. DISTRICT hereby
reserves the right to suspend or abandon, at any time and for any reason, all or any portion of the
Project and the construction work thereon, or to terminate this Agreement at any time with or
without cause. Architect shall be provided with at least seven (7) days advanced written notice
of such suspension, abandonment or termination. In the event of such suspension, abandonment
or termination, Architect shall be paid for Services and reimbursable expenses rendered up to the
date of such suspension, abandonment or termination, pursuant to the schedule of payments
provided for in this Agreement, less any claims against or damages suffered by DISTRICT as a
result of the default, if any, by Architect. The DISTRICT shall provide Architect with fifteen
(15) days advance written notice of any offset, deduct or withholding that the DISTRICT intends
to take against amounts due Architect hereunder, which notice shall provide a detailed
explanation of the basis or cause for such offset, deduct or withholding, and Architect shall be
provided an opportunity to cure or remedy such cause to the reasonable satisfaction of the
DISTRICT to avoid the withholding. Upon the DISTRICT's request and authorization, Architect
shall perform any and all Additional Services necessary to wind up the work performed to the
date of suspension, abandonment or termination. Architect hereby expressly waives any and all
claims for damages or compensation arising under this Section, except as set forth herein, in the
event of such suspension, abandonment or termination.
3.14.2 DISTRICT's Termination for Cause. If DISTRICT determines that the Architect has failed to perform in accordance with the terms and conditions of this Agreement or an Architect Default has occurred, DISTRICT may terminate all or part of the Agreement for cause.

This termination shall be effective if Architect does not cure its failure to perform within fifteen (15) Days or, if the failure to perform cannot be cured within that period, if Architect does not commence to cure within fifteen (15) Days (or longer, if authorized in writing by DISTRICT) after notice of intention to terminate is given by DISTRICT. Such notice shall specify the failure in performance.

If a termination for cause occurs, DISTRICT will have the right to withhold monies otherwise payable to Architect until DISTRICT acceptance of all the documents contracted at the time of termination have been provided. If after termination, DISTRICT incurs additional costs, expenses or other damages in connection with the Services for which payment was withheld; such costs, expenses or other damages shall be deducted from the amounts withheld. If after delivery of contracted documents to the satisfaction of DISTRICT, the amounts withheld exceed cost incurred by DISTRICT to complete the Architect services, the balance will be paid to Architect. If the costs, expenses or other damages incurred by DISTRICT exceed the amounts withheld, Architect shall be liable to DISTRICT for the difference. The provisions of this paragraph are in addition to, and not a limitation upon, any other rights and remedies of DISTRICT under law or in equity.

3.14.3 Architect's Termination for Cause. This Agreement may be terminated by the Architect upon thirty (30) days written notice to the DISTRICT only when the DISTRICT has substantially failed to perform its obligations under this Agreement. The written notice shall include a detailed description of the DISTRICT's failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Architect shall be compensated for services completed to the date of termination, together with compensation for such approved Additional Services performed after termination which are authorized by the DISTRICT to conclude the work performed to the date of termination. Upon the DISTRICT's request and authorization, Architect shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

3.14.4 DISTRICT's Suspension of Work. If Architect's Services are suspended by DISTRICT, DISTRICT may require Architect to resume such Services within ninety (90) days after written notice from DISTRICT. When the Project is resumed, the Total Compensation and schedule of Services shall be equitably adjusted upon mutual agreement of the DISTRICT and Architect to pay for the reasonably costs of Architect and its consultants in having to suspend and resume the Project.

3.14.5 Documents and Other Data. Within seven (7) calendar days following suspension, abandonment or termination of this Agreement, Architect shall provide to DISTRICT all preliminary studies, sketches, working drawings, specifications, computations, and all other Project Documents, as defined in Section 3.15.1 below, to which DISTRICT would have access.

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have been entitled at the completion of Architect's Services under this Agreement. Upon payment of the amount required to be paid to Architect pursuant to the termination provisions of this Agreement, DISTRICT shall have the rights, as provided in this Agreement hereinafter, to use such Project Documents prepared by or on behalf of Architect under this Agreement. In the event of a dispute regarding the amount of compensation to which the Architect is entitled under the termination provisions of this Agreement, Architect shall provide all Project Documents to DISTRICT upon payment of the undisputed amount. Architect shall have no right to retain or fail to provide to DISTRICT any such documents pending resolution of the dispute. Architect shall make such documents available to DISTRICT without additional compensation other than as may be approved as a reimbursable expense.

3.14.6 Employment of other Architects. In the event this Agreement is terminated in whole or in part as provided herein, DISTRICT may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.15 Ownership and Use of Documents; Confidentiality.

3.15.1 Ownership. Pursuant to California Education Code section 17316 and the requirements of the DISTRICT, all plans, specifications, original or reproducible transparencies of working drawings and master plans, preliminary sketches, architectural presentation drawings, structural computations, estimates and any other documents prepared pursuant to this Agreement, including, but not limited to, any other works of authorship fixed in any tangible medium of expression such as writings, physical drawings and data magnetically or otherwise recorded on electronically (hereinafter referred to as the "Project Documents") shall be and remain the property of DISTRICT. Although the official copyright in all Project Documents shall remain with the Architect or other applicable subcontractors or consultant, the Project Documents shall be the property of DISTRICT whether or not the work for which they were made is executed or completed. Within thirty (30) calendar days following completion of the Project, Architect shall provide to DISTRICT copies of all Project Documents required by DISTRICT upon the payment of reasonable duplication costs. In addition, Architect and all subconsultants shall retain copies of all Project Documents on file for a minimum of ten (10) years following completion of the Project, and shall make copies available to DISTRICT upon the payment of reasonable duplication costs. Before destroying the Project Documents following this retention period, Architect shall make a reasonable effort to notify DISTRICT and provide DISTRICT with the opportunity to obtain the documents.

3.15.2 Right to Use. Architect grants to DISTRICT the right to use and reuse all or part of the Project Documents, at DISTRICT's sole discretion and with no additional compensation to Architect, for the following purposes:

(A) The construction of all or part of this Project;

(B) The repair, renovation, modernization, replacement, reconstruction or expansion of this Project at any time;

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DISTRICT
(C) The construction of another project by or on behalf of the DISTRICT for its ownership and use;

DISTRICT is not bound by this Agreement to employ the services of Architect in the event such documents are used or reused for these purposes. DISTRICT shall be able to use or reuse the Project Documents for these purposes without risk of liability to the Architect or third parties with respect to the condition of the Project Documents, and the use or reuse of the Project Documents for these purposes shall not be construed or interpreted to waive or limit DISTRICT's right to recover for latent defects or for errors or omissions of the Architect. Notwithstanding the foregoing, the DISTRICT right to use and reuse all or part of the Project Documents shall be conditioned upon payment to Architect of all amounts to which it is entitled hereunder.

Any use or reuse by DISTRICT of the Project Documents on any project other than this Project without employing the services of Architect shall be at DISTRICT's own risk with respect to third parties. If DISTRICT uses or reuses the Project Documents on any project other than this Project, it shall remove the Architect's seal from the Project Documents and indemnify and hold harmless Architect and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Project Documents on such other project.

Architect shall not be responsible or liable for any revisions to the Project Documents made by any party other than the Architect, a party for which the Architect is legally responsible or liable, or anyone approved by the Architect.

3.15.3 License. This Agreement creates a non-exclusive and conditional license for DISTRICT to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein, provided that DISTRICT is not in default with respect to its obligations to Architect hereunder, including, but not limited to, the DISTRICT's payment obligations. Architect shall require any and all subcontractors and consultants to agree in writing that DISTRICT is granted a non-exclusive and conditional license for the work of such subcontractors or consultants performed pursuant to this Agreement.

3.15.4 Right to License. Architect represents and covenants that Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Project Documents that Architect prepares or causes to be prepared pursuant to this Agreement. Architect shall indemnify and hold DISTRICT harmless pursuant to the indemnification provisions of this Agreement for any breach of this Section. Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents that were prepared by design professionals other than Architect and provided to Architect by DISTRICT.

3.15.5 Confidentiality. All Project Documents, either created by or provided to Architect in connection with the performance of this Agreement, shall be held confidential by Architect to the extent they are not subject to disclosure pursuant to the Public Records Act. All Project Documents shall not, without the written consent of DISTRICT, be used or reproduced by Architect for any purposes other than the performance of the Services. Architect shall not
disclose, cause or facilitate the disclosure of the Project Documents to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Architect which is otherwise known to Architect or is generally known, or has become known, to the related industry shall be deemed confidential. Architect shall not use DISTRICT’s name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, website/internet, television or radio production or other similar medium without the written consent of DISTRICT.

3.16 Indemnification. Subject to Civil Code Section 2782.8 (as will be amended pursuant to SB 972 on January 1, 2011) Architect shall defend (with counsel subject to the reasonable review and consent of the District), indemnify and hold DISTRICT, its directors, officials, officers, employees and agents (not including Contractor, its subcontractors or any other parties involved in construction of the Project that might be construed as the DISTRICT’s agents) free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, to the extent arising out of, caused by, or resulting from the negligence, recklessness, or willful misconduct of Architect, its officials, officers, employees, subcontractors, consultants or agents in the performance of the Services, the Project or this Agreement, including without limitation the payment of all consequential damages and reasonable attorneys fees, expert witness fees and other related costs and expenses of defense. Architect shall pay and satisfy any judgment, award or decree that may be rendered against DISTRICT, its directors, officials, officers, employees and agents in any such suits, actions or other legal proceedings, in accordance with and to the extent of its indemnification obligation provided hereunder. Architect shall also reimburse DISTRICT for the cost of any settlement paid by DISTRICT arising out of any such claims, demands, causes of action, costs, expenses, liabilities, losses, damages, injuries, suits, actions, or other legal proceedings, in accordance with and to the extent of its indemnification obligation provided hereunder. Such reimbursement shall include payment for DISTRICT’s attorney’s fees and costs, including expert witness fees, as aforesaid. Architect shall reimburse DISTRICT, its directors, officials, officers, employees and agents for any and all legal expenses and costs, including expert witness fees, incurred by each of them in connection with, or in enforcing, the indemnity herein provided. Architect’s obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the DISTRICT, its directors, officials, officers, employees and agents.

3.17 Insurance.

3.17.1 Time for Compliance. Architect shall not commence Services under this Agreement until it has provided evidence satisfactory to the DISTRICT that it has secured all insurance required under this Section. In the event Architect fails to provide or maintain all required insurance, DISTRICT may, in its sole discretion, obtain such insurance and deduct the amount therefore from the Total Compensation, but only upon advance written notice to Architect and opportunity to cure such failure to provide the requisite insurance within fifteen (15) days of such notice.
3.17.2 **Minimum Requirements.** Architect shall, at its expense, procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Architect, its officials, officers, agents, representatives, employees or subcontractors. Such insurance shall meet at least the following minimum levels of coverage:

(A) **Minimum Scope of Insurance.** Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); (3) Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and (4) Professional Liability: Coverage which is appropriate to the Architect's profession, or that of its consultants or subcontractors.

(B) **Minimum Limits of Insurance.** Coverages shall provide limits no less than: (1) General Liability: S1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: S1,000,000 per accident for bodily injury and property damage; (3) Workers' Compensation and Employer's Liability: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of S1,000,000 per accident for bodily injury or disease; and (4) Professional Liability: Not less than S1,000,000 per claim.

3.17.3 **Professional Liability.** Architect and its consultants and subcontractors shall procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance with limits discussed in this Section. This insurance shall be endorsed to include limited contractual liability.

3.17.4 **Insurance Endorsements.** The insurance policies shall contain the following provisions, or Architect shall provide endorsements on forms supplied or approved by the DISTRICT to add the following provisions to the insurance policies:

(A) **General Liability.** The general liability policy shall be endorsed to state that: (A) the DISTRICT, its directors, officials, officers, employees and agents (excluding any Contractor of the DISTRICT, its subcontractors or any other parties involved in construction of the Project) shall be covered as additional insureds with respect to the performance of the Agreement by the Architect, its officials, officers, agents, representatives, employees or consultants retained in connection with such services; and (B) the insurance coverage shall be primary insurance as respects the DISTRICT, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Architect's scheduled underlying coverage. Any insurance or self-insurance maintained by the DISTRICT, its directors, officials, officers, employees and agents shall be excess of the Architect's insurance and shall not be called upon to contribute with it in any way.
(B) **Automobile Liability.** The automobile liability policy shall be endorsed to state that: (A) the DISTRICT, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Architect or for which the Architect is responsible; and (B) the insurance coverage shall be primary insurance as respects the DISTRICT, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Architect's scheduled underlying coverage. Any insurance or self-insurance maintained by the DISTRICT, its directors, officials, officers, employees and agents shall be excess of the Architect's insurance and shall not be called upon to contribute with it in any way.

(C) **Workers' Compensation and Employers' Liability Coverage.** The insurer shall agree to waive all rights of subrogation against the DISTRICT, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Architect.

(D) **All Coverages.** Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the DISTRICT; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the DISTRICT, its directors, officials, officers, employees and agents.

3.17.5 **Separation of Insureds: No Special Limitations.** All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the DISTRICT, its directors, officials, officers, employees and agents.

3.17.6 **Deductibles and Self-Insurance Retentions.** Any deductibles or self-insured retentions (SIR) must be declared to the DISTRICT, but the Parties acknowledge that, with respect to Architect's professional liability insurance, this obligation shall apply only to the extent any such deductible or SIR exceeds $500,000.

3.17.7 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the DISTRICT.

3.17.8 **Verification of Coverage.** Architect shall furnish DISTRICT with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the DISTRICT. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DISTRICT, if requested. All certificates and endorsements must be received and approved by the DISTRICT before work commences. The DISTRICT reserves the right to request complete, certified copies of all required insurance policies, to be provided by Architect upon DISTRICT agreement in writing to maintain same in the strictest of confidence.

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DISTRICT
3.17.9 Subcontractor and Consultant Insurance Requirements. Architect shall not allow any of its architects, engineers, experts or other consultants to commence work on any subcontract until they have provided evidence satisfactory to the DISTRICT that they have secured all insurance required under this Section. If requested by Architect, DISTRICT may approve different scopes or minimum limits of insurance for particular architects, engineers, experts or other consultants. Unless otherwise approved by the DISTRICT, the architects, engineers, experts and other consultants shall comply with each and every provision of this Section.

3.18 Records. Architect shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Architect shall allow a representative of DISTRICT during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Architect shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

3.19 Standardized Manufactured Items. Architect shall cooperate and consult with DISTRICT in the use and selection of manufactured items on the Project, including but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials and floor coverings. All such manufactured items shall be standardized to DISTRICT's criteria to the extent such criteria do not interfere with building design.

3.20 Limitation of Agreement. This Agreement is limited to and includes only the work included in the Project described herein. Any additional or subsequent construction at the site of the Project, or at any other DISTRICT site, will be covered by, and be the subject of, a separate Agreement for architectural services between DISTRICT and the architect chosen therefor by DISTRICT.

3.21 Mediation. Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the parties.

3.22 Successors and Assigns. This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Architect shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of DISTRICT. Any attempted assignment without such consent shall be invalid and void.

3.23 Asbestos Certification. Architect shall certify to DISTRICT, in writing and under penalty of perjury, that to the best of its knowledge, information and belief no asbestos-containing material or other material deemed to be hazardous by the state or federal government was specified as a building material in any construction document that the Architect prepares for the Project. Architect shall require all consultants who prepare any other documents for the Project to submit the same written certification. Architect shall also assist the DISTRICT in ensuring that contractors provide DISTRICT with certification, in writing and under penalty of
perjury, that to the best of their knowledge, information and belief no material furnished, installed or incorporated into the Project contains asbestos or any other material deemed to be hazardous by the state or federal government. These certifications shall be part of the final Project submittal. Architect shall include statements in its specifications that materials containing asbestos or any other material deemed to be hazardous by the state or federal government are not to be included.

3.24 **Disabled Veteran Business Enterprise Certification.** If required for this Project, Architect shall provide proof of DVBE compliance, in accordance with any applicable policies of the DISTRICT or the State Allocation Board, within thirty (30) days of its execution of this Agreement. If Architect fails to comply with this requirement, the Agreement shall be deemed canceled.

3.25 **No Third Party Rights.** This Agreement shall not create any rights in, or inure to the benefits of, any third party except as expressly provided herein.

3.26 **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California. Venue shall be in San Diego County.

3.27 **Entire Agreement.** This Agreement, with its exhibits, contains the entire agreement of the parties hereto, and supersedes any and all other prior or contemporaneous negotiations, understandings and oral or written agreements between the parties hereto. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all parties hereto.

3.28 **Severability.** Should any provision in the Agreement be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

3.29 **Non-Waiver.** None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is expressly specified in writing.

3.30 **Safety.** Architect shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, the Architect shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees, consultant and subcontractors appropriate to the nature of the work and the conditions under which the work is to be performed.

3.31 **Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**DISTRICT:**

**ARCHITECT:**

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Field House, Playing Surfaces, and Central Plant

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DISTRICT
Southwestern Community College District
900 Ootay Lakes Road
San Diego, CA 91910

Gensler
225 Broadway, Suite 1600
San Diego, CA 92101

Attn: Nicholas C. Alioto
Attn: Tom Heffernan

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.32 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party a percentage of reasonable attorney's fees and all other reasonable costs of such action, including expert witness fees and expenses, equal to the percentage of the total judgment lost.

3.33 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.34 DISTRICT's Right to Employ Other Consultants. DISTRICT reserves right to employ other consultants, including Architects, in connection with this Project or other projects.

3.35 Prohibited Interests.

3.35.1 Solicitation. Architect maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Architect, to solicit or secure this Agreement. Further, Architect warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Architect, any fee, commission, percentage, brokerage fee, worked on or contributed to DISTRICT facility bond campaigns, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability.

3.35.2 Conflict of Interest. For the term of this Agreement and for two (2) years after the conclusion of this contract, no director, official, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising there from.

3.36 Equal Opportunity Employment. Architect represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or any other classification protected by federal or state law. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Architect shall also comply with all relevant

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DISTRICT
provisions of DISTRICT's minority business enterprise program, affirmative action plan or other
related programs or guidelines currently in effect or hereinafter enacted.

3.37 Labor Certification. By its signature hereunder, Architect certifies that it is
aware of the provisions of Section 3700 of the California Labor Code which require every
employer to be insured against liability for Worker's Compensation or to undertake self-
insurance in accordance with the provisions of that Code, and agrees to comply with such
provisions before commencing the performance of the Services.

3.38 Drug/Tobacco-Free Facilities. All DISTRICT facilities are drug and
tobacco-free facilities. Any drug and/or tobacco use (smoked or smokeless) is prohibited at all
times on all areas of DISTRICT facilities.

3.39 Subcontracting. As specified in this Agreement, Architect shall not subcontract
any portion of the Services required by this Agreement, except as expressly stated herein,
without prior written approval of DISTRICT. Subcontracts, if any, shall contain a provision
making them subject to each and every provision of this Agreement.

3.40 Supplemental Conditions. Any supplemental conditions shall be attached as an
exhibit to this Agreement, and that exhibit shall be incorporated herein by reference.

3.41 Exhibits and Recitals. All Exhibits and Recitals contained herein and attached
hereto are material parts of this Agreement and are incorporated as if fully set forth herein by this
reference.

3.42 Authority to Execute. The persons executing this Agreement on behalf of their
respective Parties represent and warrant that they have the authority to do so under law and from
their respective Parties.

DISTRICT

By: [Signature]
Raj K. Chopra, Ph.D.
Superintendent/President

[Signature continued on the following page.]

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Attest:
Name: [Name]

Originator: Nicholas C. A. Alioto, Vice President for
Business and Financial Affairs.
Account No.: 5-45123-718741 970 (Proposition R Funds)

ARCHITECT

DISTRIBUTION:
ARCHITECT

By: [Signature]
Name: [Signature]

Federal Tax Identification Number: 941663305

APPROVED AS TO FORM BY:

By: [Signature]
Tyree K. Dorward, District Legal Counsel

Purchasing, Contracting & Central Services
Contract Approval No. 43169.10
Date: November 24, 2010

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Field House, Playing Surfaces, and Central Plant

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EXHIBIT "A"

ARCHITECT'S SCOPE OF SERVICES

The Replacement of Devore Stadium Field House and Central Plant comprises the following program:

A. 20,000 ASF / 30,700 GSF Field House adjacent to Devore Stadium
   1. Football locker room for 120 players
   2. Visitor/PE lockers divisible for male/female
   3. Training room
   4. Strength training room
   5. (4) general instruction classrooms
   6. Lecture hall to seat 120
   7. 2 tutoring labs
   8. Department head office & reception
   9. (7) 150ASF faculty offices
  10. Central Plant operator's office
  11. Unassigned support space

B. 8,000 GSF, 2,200 ton electric chiller Central Plant adjacent to Field House

C. Campus distribution loop and primary laterals to existing campus core buildings and to Corner Lot project for Central Plant utilities (chilled water and heating hot water supply and return).

D. Replacement of playing surfaces with synthetic turf at Devore Stadium.

E. Replacement of playing surfaces with synthetic turf on the softball/soccer field, and the football practice field will be designed as part of the basic services but will be bid as alternates.

F. Enhancements to Devore Stadium which may include the following:
   2. Replacement of Devore Stadium restrooms with separate home and away-side restroom facilities.
   3. Replacement of Devore Stadium concessions with separate home and away-side concessions facilities.
   4. Replacement of Devore Stadium ticketing/box offices with separate home and away-side ticketing/box office facilities.
   5. Replacement of Devore Stadium public address (PA) system
   6. Replacement of Devore Stadium scoreboard.
   7. Accessibility improvements to Devore Stadium.

G. Outdoor spaces immediately surrounding the Field House, Central Plant, and Devore Stadium improvements.

H. Coordination with the Corner Lot design.
1. **GENERAL REQUIREMENTS.**

1.1 **Basic Services.** Architect agrees to perform all the necessary professional architectural, landscape architectural, engineering (e.g. civil, mechanical, electrical, plumbing, structural, site engineering, and any other necessary engineering services) and construction administration services for the Project in a timely and professional manner, consistent with the standards of the profession, including those provided for herein.

1.2 **Exclusions from Basic Services.** The following services shall be excluded from the basic services listed above: land surveying, geotechnical engineering, and testing.

1.3 **Additional Services.** Architect shall perform the following Additional Services for the Project:

   The Architect shall perform the following additional services under this Agreement only if said services are authorized in advance in writing by the DISTRICT. Said additional services shall be compensated in accordance with schedule in Exhibit "C", per allowances in accordance with Exhibit "D", or by separate addendum.

   A. Revisions and changes in approved drawings and the preparation of alternate and/or deductive change orders requested by the DISTRICT, except as otherwise required by this contract, and excluding corrections of design errors, conflicts, and/or omissions by Architect in the work performed under this Agreement.

   B. Supervision of repair of damage to the Project not resulting from fault of the Architect.

   C. The preparation of measured drawings of pre-existing structures as authorized by the DISTRICT.

   D. The additional services caused by the delinquency or insolvency of the contractor.

   E. If directed or requested by the DISTRICT, the employment of special consultants, the preparation of special delineation of models, and overtime work by the Architect’s employees, except as otherwise required by this contract. Special consultants for this project include: food service design, environmental graphics and signage, public address and scoreboard design, and synthetic playing surface design consulting. See Exhibit “D” for not to exceed allowances for special consultants.

   F. Providing contract administration services after the construction contract time has been exceeded through no fault of the Architect where it is determined that the fault is that of the contractor and liquidated damages are collected therefore.

1.4 **Cooperation and Communication with DISTRICT.** Architect shall cooperate and participate in consultations and conferences with DISTRICT, DISTRICT’s consultants,
authorized representatives of DISTRICT, and/or other local, regional, or state agencies concerned with the Project, which may be necessary for the completion of the Project or the development of the drawings, specifications and documents in accordance with the applicable standards and requirements of law and the DISTRICT. Such consultations and conferences shall continue throughout the planning and construction of the Project and the contractor's warranty period. Architect shall take direction only from the DISTRICT's Representative, or any other representative specifically designated by the DISTRICT for this Project, including any construction manager hired by the DISTRICT.

1.5 Coordination and Cooperation with Construction Manager. The DISTRICT may hire a construction manager to administer and coordinate all or any part of the Project on its behalf. If the DISTRICT does so, it shall provide a copy of its agreement with the construction manager so that the Architect will be fully aware of the duties and responsibilities of the construction manager. The Architect shall cooperate with the construction manager and respond to any requests or directives authorized by the DISTRICT to be made or given by the construction manager. The Architect shall request clarification from the DISTRICT in writing if the Architect should have any questions regarding the authority of the construction manager.

1.6 In conjunction with the other duties described herein, the Architect shall continuously monitor construction costs and provide detailed estimates at the completion of the initial planning phase, schematic plan phase, the design development phase, and any time during the final working drawings and specifications phase when design revisions or market conditions result in a potential change to the previously provided estimate. These estimates should include a breakdown of the work elements as well as contingencies in an amount that corresponds to the level of design completion.

2. INITIAL PLANNING PHASE.

During the initial planning phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

2.1 Programming. Assist the DISTRICT in the preparation of programming for the Project to define the scope, size, space relationship and site development.

2.2 Project Feasibility. Provide advice and assistance to DISTRICT in determining the feasibility of the Project, analysis of the type and quality of materials and construction to be selected, the site location, and other initial planning matters, including, but not limited to, developing a building program identifying and confirming the facility functions, square footage requirements, adjacency relationships, flow diagrams and equipment needs (including a preliminary construction cost estimate based on area costs). Existing equipment needs, data and inventory to be provided by the DISTRICT.

2.3 Meeting Budget and Project Goals. Architect shall notify DISTRICT in writing of potential complications, cost overruns, unusual conditions, and general needs that potentially impact the Project budget and timeline, including the DISTRICT's Preliminary Construction

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Budget. Architect shall use its best judgment in determining the balance between the size, type and quality of construction to achieve a satisfactory solution within the Project's budget and construction allowance. It shall be the duty of the Architect to suggest alternatives to DISTRICT which would reduce costs and to design the Project within budget and State Allocation Board cost standards, if any. As discussed below in Section 7 of this Exhibit, if the lowest responsive and responsible bid for the Project exceeds the budget by the stated percentage amount, Architect may be required to make the necessary changes in the drawing and specifications, at its sole cost and expense, to bring the bids within the required budget.

2.4 Permits, Approvals and Authorizations. As indicated in Section 3.5.4, Architect shall assist DISTRICT in securing easements, encroachment permits, rights of way, dedications, infrastructures and road improvements, as well as coordinating with utilities and adjacent property owners.

3. SCHEMATIC PLAN PHASE.

During the schematic plan phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

3.1 Approval and Revisions. DISTRICT shall review, study, and check the work product developed during the Initial Planning Phase and presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the DISTRICT's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all DISTRICT requested changes, additions, deletions, and corrections in such work product at no additional cost, so long as they are not inconsistent with earlier DISTRICT direction.

3.2 Funding Documents. If applicable, Architect shall provide a site plan and all other Project-related information necessary and required for an application by DISTRICT to any federal, state, regional, or local agencies for funds to finance the construction Project.

3.3 Schematic Plans. In cooperation with DISTRICT, Architect shall prepare the conceptual design of the Project, illustrating the scale and relationship of the Project components ("Schematic Plans"). The Schematic Plans shall include a conceptual site plan, if appropriate, and preliminary plans and studies, sections, elevations, schematic drawings, site utilization plans, and phasing plans showing the scale and relationship of the components of the Project, the plot plan development at the site, and the proposed architectural concept of the buildings. Architect shall incorporate the educational programs and the functional requirements of DISTRICT into the Schematic Plans. At the Architect's option, the Schematic Plans may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. The Schematic Plans shall meet all laws, rules and regulations of the State of California, including but not limited to, the regulations of the State Department of Education (5 Cal. Code Regs. § 14000 et seq.) or the Office of Public School Construction ("OPSC"), as well as any guidelines implemented by the State Department of Education. All Schematic Plans

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shall be prepared in a form which may be submitted to the State Department of Education and OPSC for approval. The Schematic Plans shall show all rooms incorporated in each building of the Project in single-line drawings, and shall include all revisions required by DISTRICT or by any federal, state, regional or local agency having jurisdiction over the Project. All architectural drawings for the Project shall be in a form suitable for reproduction.

3.4 Preliminary Project Budget. Architect shall use the DISTRICT’s Preliminary Construction Budget and its own expertise and experience with the Project to establish a preliminary project budget or allowance in a format required by DISTRICT or, if applicable, by any school construction funding agency identified by DISTRICT ("Architect’s Preliminary Project Budget"). The purpose of the Architect’s Preliminary Project Budget is to show the probable Project cost in relation to DISTRICT’s Preliminary Construction Budget and the construction standards of any applicable funding agency. If Architect perceives site considerations which render the Project expensive or cost prohibitive, Architect shall disclose such conditions in writing to DISTRICT immediately. As stated below in Section 7 of this Exhibit, if the lowest responsive and responsible bid for the Project exceeds the budget by more than the stated percentage amount, Architect may be required to make the necessary changes in the drawings and specifications, at its sole cost and expense, to bring the bids within the required budget. Architect shall provide a preliminary written time schedule for the performance of all construction work on the Project.

3.5 Copies of Schematic Plans and Other Documents. Architect, at its own expense, shall provide a complete set of the Schematic Plans described herein for DISTRICT’s review and approval. Additionally, at DISTRICT’s expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by DISTRICT shall be provided at actual cost to DISTRICT.

4. DESIGN DEVELOPMENT PHASE.

During the design development phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

4.1 Approval and Revisions. DISTRICT shall review, study, and check the Schematic Plans presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the DISTRICT’s Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all DISTRICT requested changes, additions, deletions, and corrections in the Schematic Plans at no additional cost, so long as they are not inconsistent with earlier DISTRICT direction.

4.2 Design Development Documents. Once DISTRICT provides Architect with specific written approval of the Schematic Plans described herein, Architect shall prepare design development documents consisting of: (1) site and floor plans; (2) elevations; (3) sections; (4)
typical construction details; (5) equipment layouts; and (6) any other drawings and documents sufficient to fix and describe the types and makeup of materials, as well as the scope, relationships, forms, size, appearance and character of the Project's structural, mechanical and electrical systems, and to outline the Project specifications ("Design Development Documents"). The Design Development Documents shall be prepared in sufficient form to present to the DISTRICT's Governing Board for approval.

4.3 Copies of Design Development and Other Documents. Architect, at its own expense, shall provide three (3) complete sets of the Design Development Documents described herein for DISTRICT's review and approval. Additionally, at DISTRICT's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by DISTRICT shall be provided at actual cost to DISTRICT.

4.4 Updated Project Budget. Architect shall use its Preliminary Project Budget and expertise and experience with the Project to establish an updated estimate of probable construction costs, containing detail consistent with the Design Development Documents as set forth herein and containing a breakdown based on types of materials and specifications identified herein ("Architect's Updated Project Budget").

4.5 Timetable. Architect shall provide a written timetable for full and adequate completion of the Project to DISTRICT.

4.6 Application for Approvals. Architect shall assist DISTRICT in applying for and obtaining required approvals from all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Architect shall furnish and process all architectural and engineering information required to prepare and process applications to applicable utilities in order to secure priorities and materials, to aid in the construction of the Project and to obtain final Project approval and acceptance by any of the above agencies as may be required.

4.7 Color and Other Aesthetic Issues. Architect shall provide, for DISTRICT's review and approval, a preliminary schedule of all color materials and selections of textures, finishes and other matters involving an aesthetic decision about the Project.

4.8 Contract Delivery Method. Architect shall advise DISTRICT on contract delivery methods for the Project and provide Project drawings, specifications and bid documents, discussed in sections 5 and 6 to support DISTRICT's approved delivery method.

4.9 Incorporation of Post-Construction Stormwater Design Standards. The Architect shall incorporate post-construction design standards into the Project as follows:
A. Basic Requirements.

As part of the basic Services provided pursuant to this Agreement, the Architect shall include in the design prepared for the Project as appropriate, the post-construction best management practices ("BMPs") necessary to ensure that the District and the contractor(s) comply with the State Water Resources Control Board (State Water Board) stormwater regulations applicable to the Project, including, but not limited to Water Quality Order No. 2009-00009-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002. The Architect shall include all costs associated with incorporating such BMPs into the design of the Project at no additional cost to the District.

B. Incorporation of Design Standards.

In order to ensure such compliance, the Architect shall incorporate the following four Design Standards as goals for the design of the Project:

1. **Conserv Natural Areas**: Conservation of existing natural areas on the Project site to the maximum extent possible.

2. **Volume and Flow (Hydromodification) Control**: Incorporation of non-structural and structural measures to manage the volume and flow of stormwater runoff from the completed Project site, and replicate the pre-project water balance (defined as the volume of rainfall that ends up as runoff) for the smallest storms up to the 85th percentile storm event. For sites whose disturbed area exceeds two acres, preserve the pre-construction drainage density (miles of stream length per square mile of drainage area) for all drainage areas within the area serving a first order stream14 or larger stream and ensure that post-project time of runoff concentration is equal or greater than pre-project time of concentration.

3. **Minimization of Pollutants of Concern**: Use of BMPs to reduce the discharge of pollutants from the completed Project site as described in Section C below.

4. **Provide Ongoing BMP Maintenance**: Incorporate and describe maintenance required for BMPs in Project plans so that District can ensure that the BMPs and stormwater system are performing as designed.

C. Specific Requirements for BMPs.
The BMPs the Architect incorporates as part of the Design Standards described above, shall be designed to minimize pollutants of concern and shall focus on mitigating the impacts caused by impervious surfaces by implementing BMPs that stress: (i) low impact development (LID) designs that infiltrate and treat stormwater on the Project site; (ii) source controls; and (iii) treatment controls. BMPs which may be used to comply with the above-described design standards may be found in U.S. EPA’s Toolbox of BMPs at:


or in the County of San Diego’s Low Impact Development Handbook which can be found at:


The Regional Water Quality Control Board may also have lists of approved references and resources.

5. **FINAL WORKING DRAWINGS AND SPECIFICATIONS.**

During the final working drawings and specifications phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

5.1 **Approval and Revisions.** DISTRICT shall review, study, and check the Design Development Documents presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the DISTRICT’s Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all DISTRICT requested changes, additions, deletions, and corrections in the Design Development Documents at no additional cost, so long as they are not inconsistent with earlier DISTRICT direction.

5.2 **Final Working Drawings and Specifications.** Once DISTRICT provides Architect with specific written approval of the Design Development Documents described herein, Architect shall prepare such complete working drawings and specifications as are necessary for developing complete bids and for properly executing the Project work ("Final Working Drawings and Specifications"). Such Final Working Drawings and Specifications shall be developed from the Schematic Plans and Design Development Documents approved by DISTRICT. The Final Working Drawings and Specifications shall set forth in detail all of the following: (1) the Project construction work to be done; (2) the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical systems; and (3) the utility service connection equipment and site work. As indicated in Section 3.10.2, DISTRICT may be requested to supply Architect with the necessary information to determine the proper location of all improvements on and off site, including existing record drawings ("existing record drawings") in DISTRICT’s possession. Architect will make a good-faith effort
to verify the accuracy of such information by means of a thorough interior and exterior visual survey of site conditions. DISTRICT shall also make a good-faith effort to verify the accuracy of the existing record drawings and provide any supplemental information to Architect which may not be shown on the existing record drawings. Architect shall not be responsible for the accuracy of the existing record drawings, except to the extent that any inaccuracy should have been detected by the Architect, pursuant to its standard of care, from readily available documents and visual observations of existing conditions.

5.3 Form. The Final Working Drawings and Specifications must be in such form as will enable Architect and DISTRICT to secure the required permits and approvals from all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. In addition, the Final Working Drawings and Specifications must be in such form as will enable DISTRICT to obtain, by competitive bidding, a responsive bid within the applicable budgetary limitations and cost standards. The Final Working Drawings and Specifications shall be clear and legible so that uniform copies may be on standard architectural size paper, properly indexed and numbered, and shall be capable of being clearly copied and assembled in a professional manner by Architect.

5.4 Approval and Revisions. DISTRICT shall review, study, and check the Final Working Drawings and Specifications presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by DISTRICT's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Architect shall submit Project Documents to government authorities for approval and DISTRICT will pay any fees as reimbursable expenses.

Architect shall make all DISTRICT-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications at no additional cost, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier DISTRICT direction or Architect's professional judgment. Architect shall bring any such conflicts and/or inconsistencies to the attention of DISTRICT. The parties agree that Architect, and not the DISTRICT, possesses the requisite expertise to determine the constructibility of the Final Working Drawings and Specifications. However, the DISTRICT reserves the right to conduct one or more constructibility review processes with the Final Working Drawings and Specifications, and to hire an independent architect or other consultant to perform such reviews. Any such independent constructibility review shall be at DISTRICT's expense. Architect shall make all DISTRICT-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications which may result from any constructibility review, at no additional cost to the DISTRICT, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier DISTRICT direction or Architect's professional judgment. If such
changes, additions, deletions or corrections are inconsistent with prior DISTRICT direction, Architect shall make such alterations and be compensated therefore pursuant to the Additional Services provision of this Agreement.

5.5 Costs of Construction. It is understood by Architect that should the Final Working Drawings and Specifications be ordered by DISTRICT, DISTRICT shall specify the sum of money set aside to cover the total cost of construction of the work, exclusive of Architect's fees. Should it become evident that the total construction cost will exceed the specified sum, Architect shall at once present a statement in writing to the DISTRICT's Representative setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based.

5.6 Copies of Final Working Drawings and Specifications and Other Documents. Architect, at its own expense, shall provide three (3) complete sets of the Final Working Drawings and Specifications described herein for DISTRICT's review and approval. Additionally, at DISTRICT's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by DISTRICT shall be provided at actual cost to DISTRICT.

6. CONSTRUCTION CONTRACT DOCUMENTS.

During the construction contract documents phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

6.1 Bid and Contract Documents. Architect shall assist DISTRICT in the completion of all bid and construction documents, including but not limited to, the Notice Inviting Bids, Instructions to Bidders, Contract Bid Forms (including Alternate Bids as requested by DISTRICT), Contract, General Conditions, Supplementary General Conditions, Special Conditions, other necessary conditions of the contract, Project Manual (e.g. conditions of the contract, specifications, and bidding requirements and sample forms), DVBE and other applicable affirmative action documents, Performance Bond, Payment Bond, Escrow Agreement for Security Deposits, and any other certifications and documents required by federal, state and local laws, rules and regulations which may be reasonably required in order to obtain bids responsive to the specifications and drawings. All such documents shall be subject to the approval of DISTRICT and DISTRICT's legal counsel.

6.2 Final Estimate. At the time of delivery of these bid and construction documents, which shall include the Final Working Drawings and Specifications (collectively referred to herein as the "Construction Documents"), Architect shall provide DISTRICT with its final estimate of probable construction cost ("Architect's Final Estimate"). As stated above, it shall be the Architect's duty to design the Project within budget.

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7. **BID PHASE.**

During the bid phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

7.1 **Reproducible Construction Documents.** Once DISTRICT provides Architect with specific written approval of the Construction Documents and Architect's Final Estimate, Architect shall provide to DISTRICT three (3) sets of reproducible Construction Documents.

7.2 **Distribution of Contract Documents and Review of Bids.** Architect shall assist DISTRICT in distributing the Construction Documents to bidders including to plan rooms and electronically, and conducting the opening and review of bids for the Project. DISTRICT will reimburse the Architect for the cost of reproducing bid sets, addenda and related delivery charges.

7.3 **Over Budget.** If the apparent lowest responsive and responsible bid on the Project exceeds the Architect's Final Estimate by more than five percent (5%), excluding bid alternates (such as the replacement of synthetic turf at the softball/soccer field, and the football practice field described above) DISTRICT may request Architect to amend, at Architect's sole cost and expense, the Final Drawings and Specifications in order to rebid the Project and receive a lowest responsive and responsible bid equal to or less than the Architect's Final Estimate. All revisions necessary to bring the lowest responsible and responsive bid within the Architect's Final Estimate, including any omissions, deferrals or alternates, shall be made in consultation with, and subject to the approval of, the DISTRICT.

8. **CONSTRUCTION PHASE.**

During the construction phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

8.1 **Observation.** The Project Architect shall observe work executed from the Final Working Drawings and Specifications in person, provided that DISTRICT may, in its discretion, consent to such observation by another competent representative of Architect.

8.2 **General Administration.** Architect shall provide general administration of the Construction Documents and the work performed by the contractors.

8.3 **Pre-Construction Meeting.** Architect shall conduct one or more pre-construction meetings, as the DISTRICT determines is needed for the Project, with all interested parties.

8.4 **Site Visits of Contractor's Work.** Architect shall conduct site visits to observe each contractors' work for general conformance with the Construction Documents and with any approved construction schedules or milestones. Such site visits shall be conducted as often as
are necessary and appropriate to the stage of construction, according to the DISTRICT's sole discretion, but in no event less than weekly.

8.5 Site Visits of Inspector's Work. Architect shall conduct site visits to communicate and observe the activities of the Project inspectors, including the Inspector of Record. Such site visits shall be conducted as often as is mutually acceptable to Architect and DISTRICT. Architect shall direct the Project inspectors and the Project contractors, and shall coordinate the preparation of record drawings indicating dimensions and location of all "as-built" conditions, including but not limited to, underground utility lines.

8.6 Coordination of Architect's Consultants. Architect shall cause all architects, engineers and other consultants, as may be hired by Architect or DISTRICT, to observe the work completed under their disciplines as required, and approve and review all test results for general conformance with the Construction Documents.

8.7 Reports. Architect shall make regular reports as may be required by applicable federal, state or local laws, rules or regulations, as well as the federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services, the County in which the Project is located, the City in which the Project is located or any other appropriate federal, state, regional or local regulatory bodies.

8.8 Construction Meetings: Minutes. Architect shall attend all construction meetings and provide detailed written reports/minutes to the DISTRICT after each construction meeting in order to keep DISTRICT informed of the progress of the work within five (5) days of the construction meeting. Such meetings shall occur at a frequency necessary for the progress of the Project work, according to the DISTRICT's sole discretion, but no less than weekly.

8.9 Written Reports. Architect shall make written reports to DISTRICT, at least monthly, to inform DISTRICT of problems arising during construction, changes contemplated as a result of each such problem, and the progress of the Project work. The Architect shall not have control over the acts or omissions of the contractors, subcontractors or their agents or employees, or of any other persons or entities performing or supplying portions of the work which were not employed or hired by Architect. The contractor shall not be relieved of its obligation to perform the work in accordance with the Contract Documents either by activities or duties of the Architect, or by tests, inspections or approvals required or performed by persons other than the contractor.

8.10 Written Records. Architect shall keep accurate written records of the progress and quality of the Project work and the time schedules, and shall advise the contractors and DISTRICT of any deviations from the time schedule which could delay timely completion of the Project.

8.11 Material and Test Reports. Architect shall check and process, in a timely manner, all required material and test reports for the Project work. In addition, Architect shall
provide notice of any deficiencies in material or work reflected in such reports, as well as its recommendation for correction of such deficiencies, to the contractors, DISTRICT and federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies.

8.12 **Review and Response to Submissions.** Architect shall review and respond, in a timely manner, to all schedules, submittals, shop drawings, samples, information requests, change requests, and other submissions of the contractor and subcontractors for compliance with, or alterations and additions to, the Construction Documents. Architect’s review and response shall be completed within five (5) days or less after receipt to ensure the timely and uninterrupted progress of the Project work. Submission requests which involve more work or time than is normally required for routine submissions, as mutually determined by the Parties, may be the subject of additional compensation as Additional Services.

8.13 **Rejection of Work.** Architect shall promptly reject, as discussed with DISTRICT, work or materials which do not conform to the Construction Documents. Architect shall immediately notify the DISTRICT and contractor(s) of such rejections. Architect shall also have the authority to recommend to the DISTRICT that additional inspection or testing of the work be performed, whether or not such work is fabricated, installed or completed.

8.14 **Substitutions.** Architect shall consult with DISTRICT, in a timely manner (within five (5) days or less), with regard to substitution of materials, equipment and laboratory reports thereof, prior to the DISTRICT’s final written approval of such substitutions. Architect’s consultation shall be done in such a manner so as to ensure the timely and uninterrupted progress of the Project work. Substitution requests which involve more work or time than is normally required for routine substitutions, as mutually determined by the Parties, may be the subject of additional compensation as Additional Services.

8.15 **Revised Documents and Drawings.** Architect shall prepare, at no additional expense to DISTRICT, all documents and/or drawings made necessary by errors and omissions in the originally approved Construction Documents.

8.16 **Change Requests and Material Changes.** Architect shall evaluate and advise DISTRICT, in a timely manner and in writing, of any change requests and material change(s) which may be requested or necessary in the Project plans and specifications. Architect shall provide the DISTRICT with its opinion as to whether such change requests should be approved, denied or revised. If the DISTRICT has not hired a construction manager or other person to do so, the Architect shall prepare and execute all change orders and submit them to the DISTRICT for authorization. If the DISTRICT has designated a construction manager or other person to prepare all change orders, the Architect shall review all change orders prepared by such person, execute them and deliver them to the DISTRICT for authorization if they meet with the Architect’s approval, or submit them to the DISTRICT with recommendations for revision or denial if necessary. Architect shall not order contractors to make any changes affecting the contract price without approval by DISTRICT of such a written change order, pursuant to the

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terms of the Construction Documents. Architect may order, on its own responsibility and pending the DISTRICT’s Governing Board approval, changes necessary to meet construction emergencies, if written approval of DISTRICT’s Representative is first secured. Architect may also authorize minor changes in the work, pending DISTRICT’s approval, so long as such changes are not inconsistent with the intent of the Construction Documents and do not involve an adjustment in the contract sum or an extension of the contract time.

8.17 Applications for Payment. Architect shall examine, verify and approve contractor’s applications for payment, and shall issue certificates for payment in amounts approved by the Project Inspector of Record or the DISTRICT’s Representative, based on the Architect’s observations at the site. The issuance of a certificate for payment shall not be a representation that the Architect has: (1) made exhaustive or continuous on site inspections of the work for which payment is sought; (2) reviewed construction means, methods, techniques, sequences or procedures for the work for which payment is sought; (3) ascertained how and for what purpose the contractor has used money previously paid; or (4) certified that the work for which payment is sought is without defects.

8.18 Final Color and Product Selection. Architect shall coordinate final color and product selection with DISTRICT’s original design concept.

8.19 Substantial Completion. Architect shall determine the date of substantial completion, in consultation with the DISTRICT.

8.20 Punch List. After determining that the Project is substantially complete, Architect shall participate in the inspection by the IOR of the Project and shall review all remaining deficiencies and minor items needed to be corrected or completed on the Project, including those identified on the punch list prepared by the contractor (“Punch List Items”). Architect shall notify contractor in writing that all Punch List Items must be corrected prior to final acceptance of the Project and final payment. Architect shall also notify DISTRICT of all Punch List Items.

8.21 Warranties. Architect shall review materials assembled by the contractor and subcontractors with regard to all written warranties, guarantees, owners’ manuals, instruction books, diagrams, record "as built" drawings, and any other materials required from the contractors and subcontractors pursuant to the Construction Documents. Architect shall coordinate and provide these materials to the DISTRICT.

8.22 Certificate of Completion. Architect shall participate in any further inspections of the Project necessary to issue Architect’s Certificate of Completion and final certificate for payment.

8.23 Documents for Project Close-Out. Architect shall cause all other architects, engineers and other consultants, as may be hired by Architect, to file any and all required documentation with the DISTRICT or other governmental authorities necessary to close out the

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Project. Architect shall assist the DISTRICT in obtaining such documentation from all other architects, engineers, or other consultants.

9. **RECORD DRAWINGS.**

During the record drawings phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

9.1 **Record Drawings and Specifications.** Not later than thirty (30) days after substantial completion of the Project, before receipt of final payment, Architect shall review and forward the Final Working Drawings and Specifications, indicating on them all changes made by change orders or otherwise pursuant to the Construction Documents, as well as all information called for on the specifications, thus producing an "record" set of Final Working Drawings and Specifications ("Record Drawings and Specifications"). The Record Drawings and Specifications shall show, among other things, the location of all concealed pipe, buried conduit runs and other similar elements within the completed Project. Architect shall personally review and certify that the Record Drawings and Specifications are a correct representation of the information supplied to Architect by the Inspector of Record and the contractor, and shall obtain certifications from the Inspector of Record and the contractor that the drawings are correct.

9.2 **Approval.** Once DISTRICT provides Architect with specific written approval of the Record Drawings and Specifications, Architect shall forward to DISTRICT the complete set of original Record Drawings and Specifications or a complete set of reproducible duplicate Record Drawings and Specifications. The tracing shall be of such quality that clear and legible prints may be made without appreciable and objectionable loss of detail.

9.3 **Documents for Final Payment.** Prior to the receipt of Architect's final payment, Architect shall forward to DISTRICT all of the following: (1) one clear and legible set of reproductions of the computations; (2) the original copy of the specifications; (3) the Record Drawings and Specifications as required herein; (4) the final verified progress report required pursuant to Title 24 of the California Code of Regulations; and (5) Architect's Certificate of Completion.

10. **WARRANTY PERIOD.**

During the warranty period phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

10.1 **Advice.** Architect shall provide advice to DISTRICT on apparent deficiencies in the Project during any applicable warranty periods for the Project.
EXHIBIT "B"

FEE AND PHASING SCHEDULES/TASK ORDER(S)

1. Fee and Phasing Schedule.

The Architect shall be compensated based upon the following Fee Schedule:

A. Compensation

Payments on account of the agreed compensation shall be made within thirty (30) days of the DISTRICT’s acceptance of design phase service in accordance with the percentages set forth below. Billings be monthly lump sum in arrears based upon percent of work completed.

1. Initial Planning and Schematic Design – 20% of total task order sum ($370,860).
2. Design Development - 20% of total task order sum ($370,860).
3. Construction Documents – 40% of total task order sum ($741,720).
4. Construction Documents Approved by DSA – 10% of total task order sum ($185,430).
5. DSA Project Certification – 10% of task order sum ($185,430).

2. Task Order(s).

SCOPE OF SERVICES

General: Pursuant to Education Code Section 17316, all materials, plans, specifications and estimates prepared pursuant to this Agreement shall be and remain the property of the DISTRICT. Such drawings and specifications supplied as herein required shall be the property of the DISTRICT whether or not the work for which they were made is executed. The Architect shall furnish to the DISTRICT one computer file (in .PPT or .PDF format, or other format as requested by the DISTRICT), one presentation copy and seven handout copies of all work products required. Any other copies of the drawings and specifications shall be supplied to the DISTRICT by the Architect at the cost of reproduction.

All not to exceed fees include the above named reimbursables.

1. Task Order No. 1 – Replacement of Devore Stadium Field House and Central Plant
   – Architect’s Scope of Services as per Exhibit “A”.

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Deliverables and Direct Expenses included in Scope of Services (per Exhibit “A”).

a. Three (3) copies of the Schematic Design documents delivered to DISTRICT for DISTRICT review and approval.
b. Three (3) copies of the Design Development documents delivered to DISTRICT for DISTRICT review and approval.
c. Three (3) copies of the Construction Documents delivered to DISTRICT for DISTRICT review and approval.
d. Three (3) copies of the Bid Documents delivered to DISTRICT for DISTRICT use.
e. Project document approval from appropriate State and Local authorities.
f. Contract document delivered to DISTRICT ready to bid.
g. Assistance with bidding.
h. Travel to DISTRICT and State and Local authorities (not included in meeting hours).
i. Mileage to DISTRICT and State and Local authorities (if company reimburses for miles. Otherwise, included in billing rate.)
j. Consultants’ Task Order No. 1 fees are not reimbursable as they are included in the lump sum fee.
k. Consultants’ Task Order No. 1 expenses are not reimbursable as they are included in the lump sum fee.
l. Delivery, reprographic, mileage, and travel expenses required for Consultant’s internal coordination purposes.

Direct Expenses NOT included in Scope of Services (per Exhibit “A”). (at cost, for DISTRICT requested and authorized Additional Services, and for those activities not included in “Deliverables and Direct Expenses” above)

a. Printing & Photocopying
   Black & White
   8 1/2 x 11 ARC devices $ 0.23 ea
   8 1/2 x 11 Gensler devices $ 0.10 ea
   8 1/2 x 14 $ 0.23 ea
   11 x 17 $ 1.00 ea
   Color
   8 1/2 x 11 Xerox devices $ 1.50 ea
   8 1/2 x 14 $ 1.75 ea
   11 x 17 $ 2.00 ea
   Large format plotting
   $ 1.50 sf – black & white
   $ 6.00 sf – color

b. Delivery

c. Travel (not included in meeting hours).
d. Mileage (if company reimburses for miles. Otherwise, included in billing rate.)
Task Order No. 1 Lump Sum fee: $1,785,000 plus $69,300 for Direct Expenses for a Total Compensation amount of $1,854,300. Task Order No. 1 is to be complete by June 30, 2013.
EXHIBIT "C"

COMPENSATION RATES

Hourly rates for each job category are listed below. Hourly rates are reviewed on a yearly basis and are subject to revision.

<table>
<thead>
<tr>
<th>Team Member</th>
<th>Category of Staff Function</th>
<th>Hourly rate</th>
</tr>
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<tbody>
<tr>
<td>J. Kevin Heinly</td>
<td>Principal in Charge</td>
<td>$230</td>
</tr>
<tr>
<td>Tom Heffeman</td>
<td>Project Architect</td>
<td>$165</td>
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<tr>
<td>Bryce Osborn</td>
<td>Project Architect</td>
<td>$115</td>
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<tr>
<td>Stacey Cannon</td>
<td>Project Architect</td>
<td>$120</td>
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<tr>
<td>Nathan Ouren</td>
<td>Project Architect</td>
<td>$140</td>
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<tr>
<td>Christian Robert</td>
<td>Project Designer</td>
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<tr>
<td>Shawn Gehle</td>
<td>Project Designer</td>
<td>$130</td>
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<td></td>
<td>Principals</td>
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<td>Project Managers</td>
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<td></td>
<td>Senior Designers</td>
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<td></td>
<td>Intermediate Designers</td>
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<td></td>
<td>Senior Project Architect</td>
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<td></td>
<td>Project Architect</td>
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<td>Junior Designers</td>
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<td></td>
<td>Renderers</td>
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<td>Facility Consultants</td>
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<td></td>
<td>Facility Programmers</td>
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<tr>
<td></td>
<td>Administrative Staff</td>
<td>$65 - $125</td>
</tr>
</tbody>
</table>
EXHIBIT "D"

SPECIAL CONSULTANTS

Not to exceed allowances are established for Special Consultants not included in Basic Services. Invoicing to the DISTRICT for Special Consultants will be monthly, on a percent complete basis up to but not greater than the following amounts:

1. Food Service Design.
   A. Scope of work: Food service design for home and away concession stands.
   B. Total Compensation: $40,000.

2. Signage and Graphic Design for Devore Stadium.
   A. Scope of work: Directional signage in Devore Stadium and scoreboard graphic design.
   B. Total Compensation: $50,000.

3. Signage and Graphic Design for Field House
   A. Scope of work: Implementation of directional signage and graphic design for Field House based upon theme set by Corner Lot team.
   B. Total Compensation: $35,000.

4. Public Address System and Scoreboard Design.
   A. Scope of work: Public Address system and Alpha-numeric Scoreboard design for Devore Stadium, Classroom Video, MATV, and Control Systems for Field House.
   B. Total Compensation: $50,000.

5. Synthetic Turf Design.
   A. Scope of work: Design and specification for synthetic turf replacement of playing surfaces at Devore Stadium football field, soccer/practice field, and softball field.
   B. Total Compensation: $75,000.

---

Gensler
Southwestern College Replacement of Devore Stadium
Field House, Playing Surfaces, and Central Plant

Initial Each Page:

ARCHITECT

DISTRICT
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

FROM: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C. A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Proposition R Architectural Services for Corner Lot Project and Central Plant Project

RECOMMENDATION

Recommend award of RFP 109 for architectural services and authorize the Superintendent/President to enter into contracts for the following:

1. BCA Architects to provide architectural services for the Corner Lot Parcel Project at a fee equal to a maximum of 5.75% of the cost of construction estimated at Fifty-Five Million Dollars plus normal and customary reimbursables and services.

2. Gensler Architects to provide architectural services for the Central Plant Project at a fee equal to a maximum of 6.00% of the cost of construction estimated at Twenty-Six Million Dollars plus normal and customary reimbursables and services.

OVERVIEW

The Corner Parcel Project will consist of approximately 110,000 assignable square feet of administrative and conference spaces, a college bookstore, food court, art gallery, culinary arts program, wellness center, a college police station, and additional classroom space.

The Central Plant Project will consist of designing and building a new central plant which will provide all heating, ventilation and energy management control from a central location on campus.

The District issued an RFP to solicit professional architectural services from qualified firms. A total of 41 firms responded to the initial RFP, 19 firms were selected for first round interviews, and seven were selected to provide architectural services for Phase 1 of Proposition R projects.

These seven firms were then asked to participate in a design competition for the Corner Lot project. Proposition R Steering Committee acted as the design competition selection committee and consists
of the Superintendent/President, Vice Presidents, Academic Senate, Classified Senate, a student representative, members of the community and the program management staff. The firms were asked to provide a conceptual design for the project. The selection process adhered to the Land Development Committee Report approved by the Governing Board in October 2007. As part of the report, it was emphasized that the design must complement and incorporate the Mayan architectural theme.

The firms must have had recent community college design experience and demonstrate the ability to design within the established budget. The committee then short listed three of the seven firms for final negotiations.

BCA Architects had a design that conformed more closely to the requirements set forth in the Land Development Report. BCA Architects was ranked unanimously by all nine selection members present as being in the top three firms. In addition, the final selection was based on factors such as their fee structure, technical ability and the capability to meet the District's construction schedule. BCA Architects is being recommended to provide architectural services for the Corner Lot Project.

Gensler Architects ranked #2 in the recent design competition for the corner lot and they have had recent design experience with central plants. Gensler Architects is being recommended to provide architectural services for the Central Plant Project on the main campus.

HA/As
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of RFP

Governing Board Meeting Date: April 20, 2010
Award of RFP No. 109

Title of Bid: Architectural Firms for Corner Lot Project and Central Plant Project

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- Highlighted cell indicates recommended low bidders.

Rejected Bids:

None

Nineteen architectural firms were selected for interview for RFP No. 109; seven firms were selected to provide architectural services. Based on their interview, community college experience and project experience, the highlighted firms were selected to be recommended for award of the Corner Lot Project and the Central Plant Project. The two firms and their projects are:

- BCA Architects – Corner Lot Project
- Gensler Architecture – Central Plant Project
MEMORANDUM

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
    Superintendent/President

SUBMITTED BY: Nicholas C.A. Aloito, CPA
    Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
    Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Proposition R Construction Management at Risk Services and Architectural
        Services for Corner Lot Project, Central Plant, Replacement of DeVore
        Stadium Field House

RECOMMENDATION

Recommend award of RFP 116 for construction management at risk services and authorize the
Superintendent/President to enter into contracts and any future amendments for the following:

1. Echo Pacific Construction (EPC) to provide professional construction management at risk
    services for the Corner Lot Project at a fixed fee equal to $1,475,000 (2.5% of the cost of
    construction estimated at Fifty-Nine Million Dollars) plus fixed fee pre-construction costs of
    $500,000, fixed lump sum fee general conditions costs of $2,085,000, normal and customary
    reimbursables at a 5% markup for a total fixed fee of $4,060,000.

2. Barnhart Balfour Beatty (BBB) to provide professional construction management at risk
    services for the Central Plant Project and replacement of the DeVore Stadium Field House at
    a fixed fee equal to $825,000 (2.5% of the cost of construction estimated at Thirty-Three
    Million Dollars) plus fixed fee pre-construction costs of $174,450, fixed lump sum fee
    general condition costs of $1,178,550 and normal customary reimbursables at a 5% markup
    for a total fixed fee of $2,178,000.

3. Modify the award of RFP 109 pertaining to Gensler by adding the Replacement of the
    DeVore Stadium Field House to the Central Plant project at the same percentage fee.

OVERVIEW

The Corner Parcel Project will consist of approximately 142,000 gross square feet of administrative
and conference spaces, a college bookstore, food services, art gallery, culinary arts program, age
appropriate fitness center, a college police station, and additional continuing education and
instructional partnership spaces.

The District issued RFP 116 for construction management at risk services for the Corner Lot Project,
Central Plant, Replacement of DeVore Stadium Field House, National City Higher Education Center
new two-story facility, and Package 1 and 2 secondary impacts of Corner Lot Project. The District received a total of 17 proposals for the initial RFP. Proposals were reviewed for consistency to the requirements of the RFP, the experience of each firm with community colleges, their experience with construction management at risk delivery and/or lease/leaseback delivery method and the qualifications of each firm.

The top five firms were invited to interview for the Corner Lot Project. The interview committee consisted of a representative of the Academic Senate, a member of the community, Vice President for Human Resources, Vice President for Business and Financial Affairs, corner lot architect and two members of the bond program staff. The firms were asked to provide a presentation explaining their experience with construction management at risk or lease/leaseback delivery method and experience with projects of this magnitude. After extensive deliberations, the committee short listed two firms for final negotiations for the Corner Lot Project. Upon completion of the negotiations, EPC was recommended. They have experience managing projects of this magnitude and they were the number one choice of the committee. EPC is a local construction company and their corporate office is in San Diego. The owner was born in San Diego and resides in the San Diego area. The proposed staff are all local San Diego residents. The Project Superintendent, a 20-year resident of Chula Vista and an alumnus of Southwestern College, has constructed projects of this size and magnitude. EPC has averaged 98% local subcontractor participation on their projects in the local area.

The recommended fee structure, identified in number one above, includes preconstruction services, including constructability reviews, estimating, value engineering, scheduling and assisting with bid evaluation. In addition to preconstruction services, the other two components that are normal and customarily associated with this delivery method are the management fee and monthly general conditions costs; including site fencing, trailers, project managers, and project superintendents, etc. During negotiations the District obtained agreement from EPC that all three of these fees would be rolled into one fixed fee so that the District will know exactly what it will cost for construction management at risk services and to eliminate any disincentive to EPC to assist the District in reducing construction costs as would be the case if their fee was stated as a percentage of construction costs.

During the negotiations for the Corner Lot Project, it was determined that combining the building of the Central Plant and the replacement of the DeVore Stadium Field House in conjunction with the Corner Lot Project would be in the best interest of the District. This idea was discussed with the architectural firm, Gensler, who had been previously approved by the Governing Board to provide the design services for the Central Plant Project. They agreed that considerable savings on architectural services, construction and project management costs could be obtained by building one building instead of two.

BBB was the runner up construction management at risk firm for the Corner Lot Project. They have experience building central plants and stadiums, and it is recommended to assign them the Central Plant Project and replacement of the DeVore Stadium Field House. BBB has a local San Diego office. They have proposed all local San Diego staff with previous experience working on Southwestern College projects. Similar to EPC fee structure, the proposed BBB fees will all be fixed fees as well.

FISCAL IMPACT/ACCOUNT
0-45123-718741-970 (Corner Lot Project) Proposition R
0-45123-718734-970 (Central Plant Project) Proposition R
0-45123-718722-970 (Replacement of DeVore Stadium Field House) Proposition R

HA/jf
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Amendment No. 1 to Agreement No. A3169.10 with M. Arthur Gensler Jr. & Associates, Inc. for Central Plant, Field House and DeVore Stadium Improvements Projects

RECOMMENDATION

Ratification of Amendment No. 1 to Agreement No. A3169.10, related to RFP 109, with M. Arthur Gensler Jr. & Associates, Inc., for special consultants for the period November 1, 2010 to June 30, 2013, inclusive, in an amount not to exceed $250,000 for a new contract amount not to exceed $2,104,300.

RATIONAL FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 109 and authorized the Superintendent/President on April 20, 2010 and July 14, 2010 to enter into a contract with M. Arthur Gensler J. & Associates, Inc. to provide architectural services for the Central Plant and DeVore Stadium Field House project. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The signed contract language includes Exhibit D, which pre-priced additional services contemplated as being required upon final completion of the programming actions of the project. These services, as negotiated, are to accomplish additional requirements for the completion of
the design of the consolidated project. It has been determined that the services listed in Exhibit D are necessary. The negotiated price for these services is established at $250,000, and will be added through Amendment 1 to the base contract. This project will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $250,000 Cost to the District/Account No.:
5-45110-718734-970 (Building Central Plant - Prop R Funds)
5-46210-718722-970 (Field House and DeVore Stadium Improvements - Prop R Funds)

JRB:mk
Southwestern Community College District
Amendment to Agreement No. A3169.10
With
M. Arthur Gensler Jr. & Associate, Inc.

Amendment No. One (1)

Southwestern Community College District and M. Arthur Gensler Jr. & Associate, Inc. entered into an Agreement No. A3169.10 on November 24, 2010. Agreement No. A3169.10, Exhibit D, provided pre-priced services that could be added to the base contract through amendment.

The additional athletic fields and final programming of the scope of this project requires the use of specialty consultants and engineers. These specialty consultants and additional services were excluded from the architect’s base services pending completion of this project programming.

The associated price for this work was negotiated in anticipation of adding these services by amendment.

The District desires to add these supplemental services to Agreement No. A3169.10 as Amendment No. 1.

Amendment No. 1 will increase the architectural fee for services with M. Arthur Gensler Jr. & Associate, Inc., in the amount of $250,000, for the addition of services contemplated in Exhibit D, resulting in Agreement No. A3169.10 with a new contract amount of $2,104,300.

No Further Modifications Have Been Made To This Agreement


Denise Whittaker
Interim Superintendent/President
900 Otay Lakes Road
Chula Vista, CA 91910

Stephanie Kocrig
Vice President of Finance,
225 Broadway, Suite 1600
San Diego, CA 92101

Originator: Robert Temple, Interim Vice President for Business and Financial Affairs
Account Nos.: 5-46210-718734-970 (Central Plant – Proposition R Funds)
5-46210-718722-970 (DeVore Stadium Improvements and Field House – Proposition R Funds)
EXHIBIT "D"

SPECIAL CONSULTANTS

Not to exceed allowances are established for Special Consultants not included in Basic Services. Invoicing to the DISTRICT for Special Consultants will be monthly, on a percent complete basis up to but not greater than the following amounts:

1. **Food Service Design.**
   A. Scope of work: Food service design for home and away concession stands.
   B. Total Compensation: $40,000.

2. **Signage and Graphic Design for Devore Stadium.**
   A. Scope of work: Directional signage in Devore Stadium and scoreboard graphic design.
   B. Total Compensation: $50,000.

3. **Signage and Graphic Design for Field House**
   A. Scope of work: Implementation of directional signage and graphic design for Field House based upon theme set by Corner Lot team.
   B. Total Compensation: $35,000.

4. **Public Address System and Scoreboard Design.**
   A. Scope of work: Public Address system and Alpha-numeric Scoreboard design for Devore Stadium, Classroom Video, MATV, and Control Systems for Field House.
   B. Total Compensation: $50,000.

5. **Synthetic Turf Design.**
   A. Scope of work: Design and specification for synthetic turf replacement of playing surfaces at Devore Stadium football field, soccer/practice field, and softball field.
   B. Total Compensation: $75,000.
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

FROM: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C. A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Proposition R Architectural Services for Corner Lot Project and Central Plant Project

RECOMMENDATION

Recommend award of RFP 109 for architectural services and authorize the Superintendent/President to enter into contracts for the following:

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OVERVIEW

The Corner Parcel Project will consist of approximately 110,000 assignable square feet of administrative and conference spaces, a college bookstore, food court, art gallery, culinary arts program, wellness center, a college police station, and additional classroom space.

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The District issued an RFP to solicit professional architectural services from qualified firms. A total of 41 firms responded to the initial RFP, 19 firms were selected for first round interviews, and seven were selected to provide architectural services for Phase I of Proposition R projects.

These seven firms were then asked to participate in a design competition for the Corner Lot project. Proposition R Steering Committee acted as the design competition selection committee and consists
of the Superintendent/President, Vice Presidents, Academic Senate, Classified Senate, a student representative, members of the community and the program management staff. The firms were asked to provide a conceptual design for the project. The selection process adhered to the Land Development Committee Report approved by the Governing Board in October 2007. As part of the report, it was emphasized that the design must complement and incorporate the Mayan architectural theme.

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HA/as
Southwestern Community College District  
Business, Operations & Facilities Planning  
Recommendation of Award of RFP  

Governing Board Meeting Date: April 20, 2010  
Award of RFP No. 109.

Title of Bid: Architectural Firms for Corner Lot Project and Central Plant Project

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Southwestern Community College District

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Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Proposition R Construction Management at Risk Services and Architectural Services for Corner Lot Project, Central Plant, Replacement of DeVore Stadium Field House

RECOMMENDATION

Recommend award of RFP 116 for construction management at risk services and authorize the Superintendent/President to enter into contracts and any future amendments for the following:

1. Echo Pacific Construction (EPC) to provide professional construction management at risk services for the Corner Lot Project at a fixed fee equal to $1,475,000 (2.5% of the cost of construction estimated at Fifty-Nine Million Dollars) plus fixed fee pre-construction costs of $500,000, fixed lump sum fee general conditions costs of $2,085,000, normal and customary reimbursables at a 5% markup for a total fixed fee of $4,060,000.

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3. Modify the award of RFP 109 pertaining to Gensler by adding the Replacement of the DeVore Stadium Field House to the Central Plant project at the same percentage fee.

OVERVIEW

The Corner Parcel Project will consist of approximately 142,000 gross square feet of administrative and conference spaces, a college bookstore, food services, art gallery, culinary arts program, age appropriate fitness center, a college police station, and additional continuing education and instructional partnership spaces.

The District issued RFP 116 for construction management at risk services for the Corner Lot Project, Central Plant, Replacement of DeVore Stadium Field House, National City Higher Education Center
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The top five firms were invited to interview for the Corner Lot Project. The interview committee consisted of a representative of the Academic Senate, a member of the community, Vice President for Human Resources, Vice President for Business and Financial Affairs, corner lot architect and two members of the bond program staff. The firms were asked to provide a presentation explaining their experience with construction management at risk or lease/leaseback delivery method and experience with projects of this magnitude. After extensive deliberations, the committee short listed two firms for final negotiations for the Corner Lot Project. Upon completion of the negotiations, EPC was recommended. They have experience managing projects of this magnitude and they were the number one choice of the committee. EPC is a local construction company and their corporate office is in San Diego. The owner was born in San Diego and resides in the San Diego area. The proposed staff are all local San Diego residents. The Project Superintendent, a 20-year resident of Chula Vista and an alumnus of Southwestern College, has constructed projects of this size and magnitude. EPC has averaged 98% local subcontractor participation on their projects in the local area.

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During the negotiations for the Corner Lot Project, it was determined that combining the building of the Central Plant and the replacement of the DeVore Stadium Field House in conjunction with the Corner Lot Project would be in the best interest of the District. This idea was discussed with the architectural firm, Gensler, who had been previously approved by the Governing Board to provide the design services for the Central Plant Project. They agreed that considerable savings on architectural services, construction and project management costs could be obtained by building one building instead of two.

BBB was the runner up construction management at risk firm for the Corner Lot Project. They have experience building central plants and stadiums, and it is recommended to assign them the Central Plant Project and replacement of the DeVore Stadium Field House. BBB has a local San Diego office. They have proposed all local San Diego staff with previous experience working on Southwestern College projects. Similar to EPC fee structure, the proposed BBB fees will all be fixed fees as well.

**FISCAL IMpACT/ACCOUNT**

0-45123-718741-970 (Corner Lot Project) Proposition R
0-45123-718734-970 (Central Plant Project) Proposition R
0-45123-718722-970 (Replacement of DeVore Stadium Field House) Proposition R

HAF
MEMORANDUM

TO: Members of the Governing Board
   Southwestern Community College District

APPROVED BY: Denise Whittaker
   Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
   Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
   Director of Facilities, Operations, and Planning

SUBJECT: Approve Agreement with Barnhart Balfour Beatty
   Central Plant, Field House, and DeVore Stadium Improvements Projects

RECOMMENDATION

Approve Agreement No. A3212.11, related to RFP 116, with Barnhart Balfour Beatty, for construction management at risk services, for the period April 14, 2011 to November 30, 2013, inclusive, in an amount not to exceed $2,178,000.

OVERVIEW

The Governing Board previously approved the award of RFP 116 on July 14, 2010.

The Central Plant, Field House, and DeVore Stadium Improvements project will consist of an approximately 20,000 Assignable Square Feet (ASF) Field House, synthetic turf at DeVore Stadium, replacement of additional playing surfaces with synthetic turf, a new 8,000 Gross Square Foot Central Plant with a 2,200 ton electric chiller, a campus distribution loop and primary laterals to existing campus core buildings, conversion of existing systems on campus, and the replacement of classrooms, team shower & locker rooms, faculty offices, weight & fitness room.

The contract with Barnhart Balfour Beatty provides professional construction management at risk services including pre-construction services, trade contractor bidding and contracting, building construction, building commissioning, and project closeout. Barnhart Balfour Beatty has relevant project experience in similar size, scope, and complexity. This project will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $2,178,000 Cost to the District/Account No.:
5-45110-718734-970 (Building Central Plant – Proposition R Funds)
5-46210-718722-970 (Field House and DeVore Stadium Improvements - Proposition R Funds)

RJD:mk
CONSTRUCTION MANAGEMENT SERVICES  
“AT RISK” AGREEMENT

This Construction Management Services “At Risk” Agreement (“Agreement”) is entered into as of the 14 day of April 2011 by and between SOUTHWESTERN COMMUNITY COLLEGE DISTRICT (“District”) and BARNHART BALFOUR BEATTY (BBB) (“CMR”). The District and is referred to in this Agreement as “the Owner.” The Owner and the CMR are collectively referred to in this Agreement as “the Parties.” This Agreement is entered into with reference to the following recitals, all of which are incorporated herein by this reference.

RECITALS

WHEREAS, the Owner is the owner of the real property located at 900 Otay Lakes Road, Chula Vista, CA 91910.

WHEREAS, the District has determined that the best interests of the District are served by development and construction of a facility on the Property for educational/administrative purposes commonly referred to as the Central Plant/ DeVore Stadium Athletic Field Improvements and Field House (“the District Project”).

WHEREAS, the District has retained M. Arthur Gensler Jr. & Associates, Inc. (Gensler) (hereinafter or “the Architect” to provide and perform certain services in connection with design, bidding and construction of the District Project.

WHEREAS, the Architect is in the process of completing schematic drawings for the District Project in a series of sequential phases described as the design development plans and the Construction Drawings.

WHEREAS, as of the date of this Agreement, the Architect has not completed the Schematic plans of the Design Documents for the District Project and has not submitted the same to the Division of the State Architect (“DSA”) for approval.

WHEREAS, jurisdiction over the Design Documents for the District Project is vested in the Division of the State Architect.

WHEREAS, the District has elected to bid construction of the project to multiple contractors (“Trade Contractors”) and to construct the District Project by entering into contracts (“Trade Contracts”) with the successful bidders for each Trade Contract, which will then be assigned to the CMR as described in this Agreement.

WHEREAS, the District intends to bid the District Project with the Trade Contractors hereinafter referred to as “the Project.”

WHEREAS, in connection with reviews of the Design Documents prepared by the Architect for the Project, bidding of Trade Contracts for construction of the Project, the
District desires’ to retain and contract with the CMR to provide construction management services “at risk” for the District Project, as further described in this Agreement.

WHEREAS, in or about May 13, 2010, the District issued a Request for Proposals No. 116 (“the RFP”) for the professional construction management services pursuant to Governing Code Section 4525 et seq., through which the District sought proposals from construction management firms to provide the construction management “at risk” services in connection with review of Project Design Documents and the bidding/construction of the District Project, by this reference, the RFP is incorporated herein as if set forth in full.

WHEREAS, the CMR submitted a written proposal dated May 13, 2010 responding to the RFP (“the RFP Response”); by this reference the RFP Response is incorporated herein as if set forth in full.

WHEREAS, the District desires to retain the CMR to provide certain services in connection with the District Project in order to achieve the objectives relating to the District Project, including without limitation, review of the Project Design Documents by the CMR, management of the bidding process for the Trade Contracts by the CMR, management of a Project construction by the CMR, completion of Project construction, economies of scale by multiple Trade Contractors constructing the District Project and the risks for the time/costs to complete Project construction as set forth in this Agreement.

WHEREAS, the CMR is a professional construction manager, duly qualified and capable of providing the Basic Services described herein accordance with the term hereof, and shall not act as a general contractor nor be entitled to self-perform any construction work on the District Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties, the Parties agree as follows:
AGREEMENT

ARTICLE 1

BASIC SERVICES

1.1 **General: Phases of Basic Services.** The CMR shall provide and perform the Basic Services more particularly described in this Agreement. The Basic Services shall be performed and completed in a series of sequential Phases generally described as: Pre-Construction, Construction and Post-Construction. The scope of the CMR’s Basic Services and obligations during each Phase of the Basic Services shall be as set forth herein. All of the Basic Services during the Construction Phase shall be performed or provided by or under the control of an individual employed by the CMR, which is aLicensed B – General Building Contractor and or A – General Engineering Contractor under California law. Basic Services under this Agreement include without limitation the General Conditions items to be provided by the CMR during the Construction Phase, as further described in this Agreement and Exhibit A hereto. The CMR expressly acknowledges that this Agreement and the Basic Services only include the professional construction management services “at risk” described herein, and that the CMR shall not have the authority to self-perform any construction work on the District Project or otherwise act as a general contractor.

1.1.1 **Leadership Energy Efficiency Design (LEED) and Building Information Modeling (BIM).** The CM shall assist the Architect and Owner in achieving both LEED and Building Information Modeling implementation as it applies to each scopes of work.

1.2 **Relationship of CMR to Other Project Participants.** The CMR acknowledges that the District has entered into, or will be entering into, contracts with other parties pertaining to the design, bidding and/or construction of the Project, including without limitation, contracts with the Architect, the Inspector, and Test/Inspection service providers and others. The CMR acknowledges that accomplishing the Project objectives of the District will require that the CMR and other parties under Project related contracts with the District each completely and timely perform in accordance with their respective contractual obligations and in a collaborative manner consistent with the Project objectives of the District. The CMR acknowledges and agrees that its performance of the obligations under this Agreement in a complete and timely manner and in a collaborative manner with other Project participants is a material obligation of the CMR under this Agreement.

1.3 **CMR Standard of Care.** CMR shall provide the Basic Services using its best professional skill and judgment, acting with due care and in accordance with professional standards of care, the terms hereof and applicable law, code, rule or regulation. CMR’s services hereunder shall be provided and completed promptly and in such a manner as to avoid hindrance, interruption or delay to the orderly progress
and timely completion of the CMR’s review of Project Design Documents, Trade Contractor’s bidding and Project construction to permit occupancy of the District Project in accordance with Owner’s written and incorporated objectives.

1.4 **CMR Project Manager: Field Superintendent.** Within a mutually agreed upon date of this Agreement, the CMR shall prepare and submit to the Owner’s Representatives a written statement which identifies the qualifications of the individuals proposed by the CMR as the Project Manager and the Field Superintendent in connection with the CMR’s obligations under this Agreement. The Project Manager and Field Superintendent shall be to the reasonable satisfaction of the Owner; if the Owner requests alternatives to the individual(s) proposed by the CMR as the Project Manager or the Field Superintendent, the CMR shall provide such alternatives until the Owner has approved of the Project Manager and the Field Superintendent. Once approved by the Owner, the CMR shall not designate other individual(s) to serve in such capacities in connection with this Agreement without the prior consent and approval of the Owner. The Project Manager shall: (a) be authorized to act on behalf of the CMR with respect to this Agreement; and (b) be authorized to render binding decisions on behalf of the CMR.

1.5 **Ineligibility to Bid.** The CMR, and any other business with common ownership shall be ineligible to bid on any Trade Contract for the Project, but shall remain eligible to bid on any other Owner projects. The CMR maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for the CMR, to solicit or secure this Agreement. Further, the CMR warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for the CMR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

1.6 **Additional Services.** At any time during the term of this Agreement, the Owner may request the CMR to perform Additional Services. As used herein, “Additional Services” shall mean any service which is determined by the Owner to be necessary for proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the time of execution of this Agreement, and was not included in the Scope of Services. However, the CMR shall not perform, nor be compensated for, Additional Services without obtaining the Owner’s prior written authorization.

1.7 **Bonding for CMR Services.** Prior to commencing work on the Project, the CMR shall provide to Owner a performance bond in the amount of the total value of the CMR’s services (Fees and General Conditions) as set forth in Section 6.1 below. The performance bond provided by the CMR shall be in a format and with a surety acceptable to Owner.
ARTICLE 2

OWNER RESPONSIBILITIES

2.1 **Owner Information.** The Owner shall each provide full information to the CMR regarding the District Project, as applicable, including objectives, schedule requirements, budget limitations and other constraints and requirements which may affect the Project Budget, time for completion of Project construction or Project scope. The Owner shall provide the CMR with the Project and Construction Budget for the District Project for review by the CMR.

2.2 **Owner's Representatives.** The district shall designate a representative to act on its behalf with respect to the Project and who shall be authorized to render decisions on behalf of the Owner, as applicable, and to carry out the responsibilities of the Owner under this Agreement, all of which shall be discharged or performed in a manner so as to avoid unreasonable delay in the orderly and sequential progress of the CMR's performance of services and other obligations hereunder. Unless modified by subsequent written notice, the District Representative is Robert J. DeLiso, P.E., Bond Program Director (the District Representative hereinafter referred to as "the Owner's Representatives").

2.3 **Tests/inspections.** In accordance with applicable law, rule or regulation, the Owner shall:

(a) retain a Project Inspector ("Inspector") to provide construction observations as required by applicable laws, rules or regulations; and

(b) retain Test/Inspection Service Providers to conduct Construction Phase tests/inspections of materials/equipment forming a part of the Project, as required by applicable law, rule or regulation. The foregoing notwithstanding, as set forth below, the Basic Services of the CMR include assistance to the Owner in identifying, selecting and retaining the Inspector and Test/Inspection Service Providers.

2.4 **Owner Consultants.** Except to the extent of Design Consultants retained by the Architect, other consultants required or desired by the Owner in connection with the Project shall be retained and paid for by the Owner. Such other consultants include, without limitation, legal counsel, insurance/surety consultants or insurance consultants.

2.5 **Validation.** The Owner and CMR may mutually agree to pursue the board actions and other approvals necessary for the filing of a validation action pursuant to the provisions of the California Code of Civil Procedure. Owner and CMR agree that if a validation action is to be filed, the parties will mutually agree on the timing and allocation of costs for such a validation action.
ARTICLE 3

PRE-CONSTRUCTION PHASE

3.1 Pre-Construction Phase Schedule, Project Bidding and Construction Strategy. The initial Pre-Construction Phase activities shall be as follows:

3.1.1 Schedule of Services. Within a mutually agreed upon time period following execution of this Agreement, the CMR shall prepare and provide for the Owner's approval a master schedule of all Pre-Construction Phase Services described herein. This schedule shall be reviewed and approved the Owner's Representative in writing. All Pre-Construction Services described herein shall be completed in accordance with the approved schedule.

3.1.2 Bidding and Construction Strategy. The CMR shall, in conjunction with the Owner's Representative and other staff of the District, review the current status of completion and approvals for bidding the Project Design Documents to Trade Contractors. The objective of these reviews is the development of an overall strategy for bidding and constructing the District Project taking into account factors affecting time for completing construction of the District Project or the costs of constructing the Project. The CMR shall conduct such interviews and participate in such meetings and conferences with the Architect, Owner's Representatives, the Owner's staff and others as necessary to develop a bidding and construction strategy consistent with the Owner's Project objectives. The CMR shall submit its written recommended bidding/construction strategy to the Owner for their acceptance within a mutually agreed upon date of this Agreement ("the Preliminary Bidding/Construction Strategy"). Within mutually agreed upon days of the Owner's Representatives' receipt of the CMR's Preliminary Bidding/Construction Strategy, the Owner will submit comments, modifications and other direction to the CMR relating to the CMR's Preliminary Bidding/Construction Strategy. The CMR shall modify the Preliminary Bidding/Construction Strategy as necessary to obtain acceptance of the Owner. Modifications, if any, to the CMR's proposed bidding/construction strategy shall be completed within mutually agreed upon number of calendar days of the CMR's receipt of written communication from the Owner regarding modifications necessary to obtain the Owner's acceptance of the CMR's bidding/construction strategy; the modification process shall continue until the Owner has accepted the entirety of the CMR's proposed bidding construction strategy ("the Final Bidding/Construction Strategy"). The CMR shall implement the Final Bidding/Construction Strategy.

3.2 Review of Design Documents. The CMR, including the CMR's Project Manager and Field Superintendent, shall review the Design Documents completed by the Architect to ensure complete understanding of the Project design and scope intent.
3.2.1 **Constructability Review.** The CMR, from a construction manager’s perspective as a licensed general contractor and in accordance with industry standards, shall review the Design Documents to ascertain whether the Project, as depicted in the Design Documents: (a) accurately and completely reflect the Owner's Project objectives; and (b) the Project Design Documents are free of errors, omissions, conflicts, or other deficiencies so that Trade Contractors can construct the Project as depicted in the Design Documents without delays, disruptions or additional costs resulting from errors, omissions, conflicts or other deficiencies in the Design Documents. The scope of the CMR's constructability reviews shall include, without limitation: (a) confirmation that requirements noted in the Design Documents are consistent with and conform to the Owner's Project requirements; (b) confirmation that the various components of Design Documents prepared by the Architect and its Design Consultants have been coordinated and are consistent with each other so as to eliminate conflicts within or between components of the Design Documents; (c) confirmation from a CMR's perspective and professional standard of care, that there are no errors, omissions or other deficiencies in the Design Documents. Notwithstanding the foregoing, CMR is not an architect, engineer, code checker or other design professional and that except for the constructability obligations set forth herein, pursuant to Public Contract Code section 1104, assumes no responsibility for the adequacy or accuracy of any part of the Project design, the responsibility for which belongs to the District's Architect.

The CMR shall submit written Constructability Review comments to the Owner's Representatives within mutually agreed upon number of calendar days of the date of this Agreement. The Owner shall have the sole and exclusive discretion to accept some, all or none of the CMR's Constructability Review Comments. If the Owner accepts any of the CMR's Constructability Review Comments, the CMR shall review the Design Documents modified by the Architect for confirmation that the Owner accepted Constructability Review Comments are incorporated into the Design Documents issued on behalf of the Owner for bidding by Trade Contractors. If the CMR determines that the Architect has not incorporated into the Design Documents the Constructability Review Comments accepted by the Owner, the CMR shall advise the Owner of measures to ensure that the Design Documents issued for bidding by Trade Contractors incorporate the Owner accepted Constructability Review Comments. The CMR shall implement such measures as directed or authorized by the District.

3.2.2 **Owner Review of Constructability Comments; Incorporation of Constructability Review Comments.** Upon receipt of the CMR's Recommendations and the CMR's Constructability Review Comments, the Owner shall promptly complete review of the same. Within mutually agreed
upon number of calendar days of the date of the CMR's Constructability Review Comments, the CMR and the Owner's Representatives shall meet and confer to arrive at mutually agreed Constructability Review Comments to be incorporated by the Architect into the Project Design Documents.

3.2.3 **Labor/Materials Marketplace Survey.** The CMR shall survey the existing labor and materials marketplace conditions in the locality of the Project to ascertain the availability of suitable labor and materials necessary to complete Project construction. Within mutually agreed upon number of calendar days of the date of this Agreement, the CMR shall complete the labor/materials marketplace survey and provide the Owner's Representatives with a written evaluation of the extent of available and suitable labor/materials and whether the CMR anticipates that the extent of available and suitable labor/materials will impact the costs/time for completion of Project construction. If the CMR concludes that the extent of available and suitable labor/materials may have an adverse impact on costs/time for completion of Project construction, the CMR's written evaluation shall include recommendations for measures to mitigate such potential adverse impacts to costs/time.

3.3 **Development of Bid Packages.** Based upon its review of the Design Documents (including any Owner accepted Value Engineering Recommendations and Constructability Review Comments), the CMR shall develop written Bid Package descriptions suitable for bidding by Trade Contractors. Within mutually agreed upon number of calendar days of the date of this Agreement, the Bid Packages developed by the CMR shall be submitted to the Owner's Representatives for review and acceptance by the Owner. Within mutually agreed upon number of calendar days of the CMR’s submission of its proposed Bid Packages to the Owner's Representatives, the Owner will complete review of the Bid Packages and provide the CMR with comments, requested modifications and similar matters relating to the proposed Bid Packages. Within mutually agreed upon number of calendar days of the CMR's receipt of such comments, requested modifications and similar matters, the CMR shall revise and re-submit the revised Bid Packages to the Owner's Representatives for acceptance by the Owner. Notwithstanding the foregoing provisions or any other provisions of this Agreement, the review of Bid Packages by the Owner's Representatives and acceptance of Bid Packages by the Owner: (a) shall not relieve the CMR of its responsibility under this Agreement for developing Bid Packages which incorporate therein all work, labor, materials, equipment and services necessary to construct the Project depicted in the Design Documents issued on behalf of the District for bidding by Trade Contractors; or (b) deemed the assumption of responsibility by the Owner for the completeness, accuracy or sufficiency of any Bid Package or the totality of the Bid Packages developed by the CMR, expect the extent a change to a bid package is required by the Owner results in a damage or impact to the Project. The CMR shall modify the Bid Packages as necessary to obtain the Owner's acceptance of the entirety of each Bid Package and the entirety to all Bid Packages. The CMR shall be responsible for incorporating into each Bid Package and
identifying all work, labor, materials and services required under each Bid Package so that the District Project, as constructed by the Trade Contractors, is as depicted in the Design Documents issued for bidding, subject to Owner approved Changes during the Construction Phase. Costs for work, labor, materials or services indicated in the Design Documents issued for bidding by Trade Contractors which are not incorporated into a Bid Package shall be the sole responsibility of the CMR, and the CMR shall ensure that any such work is properly contracted and paid for in accordance with the requirements of this Agreement and applicable law, except to the extent a change to a bid package arises out of circumstances which permit the CMR to request an adjustment to the GMCC as described in Section 6.2.5 below. Nothing contained herein is intended to give the CMR the right to self-perform any such work.

3.4 **Bid-Time Master Project Schedule.** Based upon Bid Packages accepted by the Owner's Representatives, within mutually agreed upon number of calendar days of the Owner's acceptance of all Bid Packages proposed by the CMR, the CMR shall develop and submit to the Owner's Representatives for review and acceptance by the Owner a Bid-Time Master Project Schedule which is: (a) consistent with the Final Bid/Construction Strategy; (b) consistent with the Owner's time objectives for completion of Project Construction; and (c) reflects all of the Work of each Bid Package necessary to complete Project construction in accordance with the Design Documents. The Bid-Time Master Project Schedule shall be prepared with the most recent edition of commercially available software designed specifically for the scheduling of construction projects and which utilizes the critical path method of scheduling. The CMR's use of scheduling software other than Microsoft Project 2000, Primavera P3, SureTrak Project or Primavera Project Planner will require approval of the Owner's Representatives which may be granted, withheld, or conditioned in the sole discretion of the Owner's Representatives. The Bid-Time Master Project Schedule shall indicate the start/finish dates for the principal activities of each Bid Package necessary to complete Project construction. The CMR shall sequence, schedule and coordinate the work of each Bid Package in the Bid-Time Project Master Schedule in a logical, reasonable and orderly manner so that Project construction can be completed for the Construction Budget and within the time established by the Owner. If the Owner's requirements for the Project include phasing elements of Project construction, the Owner's phasing requirements shall be set forth in the Bid-Time Master Project Schedule. The CMR acknowledges that the Bid-Time Master Project Schedule prepared by the CMR will be included in the Bid Documents for each Bid Package and that Trade Contractors bidding on a Bid Package will rely upon the Bid-Time Master Project Schedule in developing their respective Bid Proposals. Accordingly, the CMR is solely responsible for the accuracy and completeness of the Bid-Time Master Project Schedule and the reasonable, logical and orderly scheduling, sequencing and coordination of the Trade Contractors' construction and construction-related activities to complete Project construction within the time and Construction Budget established by Owner, except for changes to the Bid-Time Master Project schedule, required by Owner.
3.5 **Construction Budget; CMR Estimate of Construction Costs.** The CMR shall review the Owner's Construction Budget for the District Project as well as Estimates of Construction Costs prepared by others for the Project as depicted in Design Documents as of the date of this Agreement. Based upon such reviews, within mutually agreed upon number of calendar days of the date of this Agreement, the CMR shall submit to the Owner's Representatives the CMR's Preliminary Estimate of Construction Costs for the Project depicted in such Design Documents. Upon completion of the CMR's Constructability Reviews pursuant to this Agreement, the CMR shall prepare the Final Estimate of Construction Costs which shall reflect modifications to the Design Documents resulting from Owner accepted Constructability Review Comments. The CMR's Final Estimate of Construction Costs shall be prepared and submitted to the Owner's Representatives not more than the mutually agreed upon number of calendar days following the CMR's submission of its Constructability Review Comments. All of the CMR's Estimates of Construction Costs shall: (a) be in such format and with such detailed breakdown as directed by the Owner's Representatives including without limitation a detailed breakdown of estimated costs for construction for the District Project; (b) be organized by the standard specifications sections established by the “Design Documents” and or the “Architects Project Manual”; and (c) be based upon the current market conditions for labor, materials and equipment necessary to complete Project Construction in accordance with the Design Documents. If the CMR's Final Estimate of Construction Costs for the District Project, exceeds the Construction Budget by ten percent (10%) or greater, the CMR shall make recommendations to the District, for measures to reduce the Estimate of Construction Costs to conform with the Construction Budget for the District Project. If the CMR's Final Estimate of Construction Costs (for the District Project) is less than the Construction Budget (for the District Project) by ten percent (10%) or more, the CMR shall make recommendations to the District, for items to incorporate into the Project to conform the CMR's Estimate of Construction Costs with the Construction Budget for the District Project.

3.6 **Review and Assembly of Bid Documents.** The CMR shall review and recommend modifications to the Owner’s standard forms of bid and contract documents for each Trade Contract. Within mutually agreed upon number of calendar days of the date of this agreement, the CMR shall assemble bid and contract documents for each Bid Package for submission to the Owner's Representatives for their respective review and acceptance on behalf of the Owner. The CMR shall not issue any bid or contract documents for bidding by Trade Contractors until the entire bid and contract documents for all Bid Packages are accepted by the Owner's Representative. Unless, directed by the Owner's Representative, the bid and contract documents shall include provisions, if applicable: (a) advising bidders of the implementation of a Labor Compliance Program ("LCP") in connection with all or portions of the Project; and (b) establishing a process for implementation of the LCP during Project construction and require all Trade Contractor payment and performance bonds to name Owner and CMR as co-obligees. In addition, bid documents shall require all Trade Contractors to
name Owner, the CMR, the Program Manager, and the Architect as additionally insured on all Trade Contractor required insurance policies evidenced by insurance certificate and endorsement 2010 11/85 endorsements.

3.7 **Authority to Bid.** The CMR shall review approvals heretofore obtained by or on behalf of the Owner relating to authority of the Owner to engage in bidding the Project for construction. The CMR shall assist the Owner in obtaining all regulatory approvals relating to authority of the Owner to engage in bidding Project construction have been obtained if there are limitations to the Owner's authority to bid the Project the CMR shall advise the Owner of the same and assist the Owner in removing such limitations.

3.8 **Bidding of Trade Contracts.**

3.8.1 **Advertisements.** The CMR shall develop, for review by the Owner's Representatives, such legal advertisements of the availability of Bid Packages for bidding as required by applicable law for the District. Upon the Owner's Representatives' approval of the CMR developed legal advertisements the CMR shall place such advertisements in a newspaper of general circulation in San Diego County. The CMR shall also make recommendations to the Owner's Representatives for placement of notices and issuance of other communications for the purpose of publicizing the availability of the Bid Packages for bidding by Trade Contractors. The CMR shall place such other notices and issue communications for such purposes as directed or approved by the Owner's Representatives.

3.8.2 **Trade Contractor Pre-Qualification.** The CMR shall make recommendations to the Owner relative to engaging in a pre-qualification process for all or some of the Bid Packages. If the Owner elects to engage in the pre-qualification process for any of the Bid Packages, the CMR shall: (a) develop pre-qualification criteria and the pre-qualification application; (b) develop and place advertisement(s) in a newspaper of general circulation in San Diego County of the availability of pre-qualification applications; (c) develop and implement a program to inform potential bidders for the Bid Packages subject to pre-qualification of the pre-qualification process and to encourage potential Trade Contractors to engage in the pre-qualification process; (d) review and evaluate responses to the pre-qualification application; and (e) make recommendations to the Owner for selection of Trade Contractors deemed pre-qualified to submit Bid Proposals for Bid Packages subject to the pre-qualification process. Notwithstanding the CMR's obligations pursuant to the preceding, the selection of potential bidders deemed pre-qualified shall be subject to the review and acceptance by the Owner's Representatives.
3.8.3 **Dissemination of Bid Documents to Trade Contractors.** The CMR shall establish a system for reproduction and dissemination of Bid Documents to Trade Contractors and for maintaining records of the identities/addresses/telephone-fax numbers/email addresses of the Trade Contractors who have obtained Bid Documents. Electronic files and paper copies of the CMR's records relating to potential Trade Contractor bidders who have obtained the Bid Documents shall be available to the Owner upon request of the Owner's Representatives to the CMR.

3.8.4 **Trade Contractors Campaign: Disabled Veteran Business Enterprise (DVBE) Contacts.** The CMR shall, by all appropriate means of communications, advise Trade Contractors of the availability of Bid Packages for bidding by Trade Contractors. The CMR shall endeavor to maximize the participation of qualified Trade Contractors whose principal place of business is situated in the San Diego Metropolitan area. The CMR shall maintain written or electronic records of contacts made and communications transmitted to/received from potential bidders for the Bid Packages. All such records shall be available for review and/or reproduction by the Owner upon request of the Owner's Representative.

The CM acknowledges that, to the extent required by California law, the Owner may be under a legal obligation to incorporate Good Faith Effort requirements for Disabled Veteran Business Enterprises ("DVBE") in the Trade Contract bidding documents for Project construction. As necessary, the CM shall assist the Owner in undertaking all necessary and appropriate steps to develop and implement a process for contacting and notifying potential DVBE bidders or sub-bidders of Project bidding, to inform bidders for the Trade Contracts of the contacts made by the CM with potential DVBE sub-bidders and to facilitate communications between bidders for the Trade Contracts and potential DVBE sub-bidders so that the Owner can comply with DVBE requirements.

3.8.5 **Pre-Bid Conference(s).** The CM shall conduct pre-bid conferences, including the job walk(s), if one is required or scheduled in the Bid Documents for any Bid Package. The pre-bid conference shall include without limitation: (a) description of the District Project and each Bid Package; (b) description of the process for bidding and award of Trade Contracts; and (c) material requirements of the Trade Contracts relating to bonds, insurance and similar administrative requirements of the Trade Contracts, including requirements/information on Labor Compliance Program (LCP) and implementation of the LCP. The job walk shall provide Trade Contractors with an overview of the Site and an understanding of the physical limitations and constraints affecting the Work of the Project or portions thereof. As necessary or appropriate the CMR shall conduct separate, detailed pre-bid conferences with potential bidders for specific Bid Packages. The CMR shall develop a process for
monitoring attendance by potential Trade Contractor bidders and their potential Subcontractors at job walk(s) and pre-bid conferences. The process developed by the CMR shall include without limitation information relating to: (a) each potential Trade Contractor bidder and each potential Subcontractor bidder to a potential Trade Contractor bidder in attendance; (b) the identity and contact information for the representative of each potential Trade Contractor and each Subcontractor to a potential Trade Contractor bidder (including address, telephone number(s), fax number(s) and email address); and (c) whether the representative of each potential Trade Contractor bidder and potential Subcontractors were in attendance for the entirety of the job walk or pre-bid conference, as applicable. The CMR shall record and transcribe minutes of the pre-bid conferences and job walk(s). Minutes maintained by the CMR shall be issued by the CMR to all bidders who have theretofore obtained the Bid Documents, the Owner's Representatives and the Architect. The CMR shall also assist the Architect and the Owner with the preparation of Addenda to the Bid Packages as necessary during the bidding process in response to any questions by the Bidders. All addenda shall be issued by the Architect in a uniform format as approved by the Owner.

3.8.6 **Opening/Reading of Bid Proposals.** The CMR shall, with assistance of the Owner's Representatives, conduct the public opening and reading of Bid Proposals for Bid Packages. Upon completing the public opening and reading of Bid Proposals, the CMR shall develop and submit to the Owner's Representatives written summaries of the results of bidding for each Bid Package; the summary shall include identities of the Bidders, the amount proposed by each Bidder, including amounts proposed for Alternate Bid Items, if any included in the bidding for any Bid Package and the identification of the apparent low bidder for each Bid Package consistent with the method for selection identified in the applicable Bid Packages.

3.8.7 **Review of Bid Proposals; Recommendations for Award of Trade Contracts.** The CMR shall review submitted Bid Proposals to determine: (a) whether the bidder submitting the Bid Proposal is a responsible bidder; (b) whether the Bid Proposal is responsive to material bidding requirements for the Bid Package; and (c) the price proposed for the base scope of Work of each Bid Package and for each Alternate Bid Item, if any, included in the bidding of any Bid Package. The CMR shall make recommendations to the Owner regarding: (a) rejection of a Bid Proposal based upon the "non-responsibility of the bidder; (b) rejection of a Bid Proposal for non-responsiveness to material bidding requirements of a Bid Package; (c) rejection of a Bid Proposal for any other reason; (d) rejection of all Bid Proposals; and (e) award of Trade Contracts. To the extent that the bidding for a Trade Contract include Alternate Bid Items, the CMR shall make written recommendations for the Owner's Representatives for the Alternate Bid Items, if any, to be included in the scope of the Trade Contracts awarded by the
Owner. The CMR shall make written recommendations to the Owner's Representatives for award of the Trade Contracts. The CMR is not authorized to award any Trade Contract. Award of a Trade Contract shall only be by action of the Owner.

3.8.8 **Owner Assignment of Trade Contracts to CMR.** Within mutually agreed upon number of calendar days of the date that a Trade Contractor awarded a Trade Contract returns the executed Agreement for the Trade Contract and other documents/instruments required to be submitted with the executed Agreement (including without limitation, Certificates of Insurance, Bonds, etc.), the Owner, CMR, Trade Contractor and the Trade Contractor's Surety shall execute an assignment of each Trade Contract from the Owner to the CMR (collectively hereinafter "the Assignment"). The Assignment shall assign to the CMR all of the rights and obligations of the Owner under each Trade Contract, except for rights and remedies of the Owner relating to warranty obligations and latent defect obligations of the Trade Contractor and the Owner retained rights set forth in this Agreement. However, the CMR shall remain responsible for assisting the Owner in the enforcement of its warranty rights as described herein.

3.8.8.1 **Owner Retained Rights.** Notwithstanding the effectuation of an Assignment of a Trade Contract pursuant to the foregoing, the Owner retains the right to have any Trade Contract re-assigned to the Owner upon occurrence of: (a) an event of CMR default under this Agreement which is not cured within the time permitted for cure actions by the CMR under this Agreement; or (b) if the Owner reasonably determines that the CMR is encountering adverse financial circumstances or (c) termination by the Owner in accordance with the termination provisions of this Agreement. Re-assignment of a Trade Contract from the CMR to the Owner shall be effectuated by the Owner's written notice to the CMR of the Owner's exercise of its rights of re-assignment and the effective date of such re-assignment. Except for the written notice described above, no other action shall be required of the Owner or the CMR to effectuate a re-assignment of a Trade Contract to the Owner. Notwithstanding re-assignment of a Trade Contract from the CMR to the Owner pursuant to the foregoing, the CMR's obligations hereunder relating to any such re-assigned Trade Contract shall be in accordance with the provisions of this Agreement.

3.8.8.2 **Escrow Account for Trade Contract Funds.** Owner and CMR may, upon mutual agreement, cause a Trade Contractor Escrow Payment Account to be opened at a mutually agreeable financial institution. Owner and CMR shall meet and confer regarding management,
control and procedures related to the deposit and disbursement of Trade Contractor payments from the escrow account.

ARTICLE 4
CONSTRUCTION PHASE

4.1 **Administration and Coordination of Trade Contracts and Construction.** CMR shall provide administrative, management and related services necessary to administer the Trade Contracts and to schedule, sequence and coordinate the Work of the Trade Contractors during the Construction Phase of the Project so that the Owner's Project objectives (including without limitation, budgetary and time objectives) are achieved and that the work of each Trade Contract is completed in strict conformity with the requirements of each Trade Contract. The CMR's responsibilities include without limit: (a) written notice to the Owner of the CMR's intent to issue Notice(s) to Proceed directing commencement of work under the Trade Contracts; (b) scheduling, coordinating and conducting pre-construction and construction meetings; recording, maintaining and distributing minutes thereof; (c) in consultation with the Architect, develop and implement procedures for the submission and processing of Submittals required by each Trade Contract; (d) in consultation with the Owner and the Architect, develop and implement procedures for the handling and disposition of the Trade Contractors' requests for information or clarifications; (e) establish and implement procedures for the transmittal and receipt of communications, drawings and other information between the Owner, Owner's Representatives, CMR, Architect, Inspector, Test/Inspection services and the Trade Contractors relating to Project construction; (f) assist the Owner in selection and retention of Test/Inspection Service Providers and the Inspector; (g) schedule, sequence and coordinate activities of the Trade Contractors; and (h) allocate Site staging and storage areas among the Trade Contractors.

4.2 **Monitoring of Construction Costs.** CMR will monitor on-going Construction Costs and advise the Owner of the financial condition of the Project by: (a) development of Project cash flow reports, forecasts and other financial reports to the Owner, including those reflecting variations between actual Construction Costs and the Construction Budget and estimated costs of unperformed District Project activities; (b) maintaining records reflecting the actual costs for activities completed or in progress, including records relating to work performed on a unit cost basis and additional work performed by the Trade Contractors on a time and materials basis; (c) monitor and advise the Owner of costs pertaining to potential, pending and completed changes to any Trade Contract; and (d) advising and making recommendations to the Owner for adjustments to the Construction Budget relative to actual or anticipated Construction Costs. Data, information and analysis of Project Construction Costs pursuant to the foregoing shall be maintained for the District Project. The CMR shall prepare and
submit cost reports (which summarize and present in a logical format the information derived from (a)-(d) above, to the Owner's Representatives on a monthly basis; provided that if the Owner's Representatives reasonably determines that more frequent cost reports are required, the CMR shall comply with the directive(s) of the Owner's Representatives. The information compiled by the CMR and reports generated by the CMR relating to Construction Costs shall be in such detail and format as required by the Owner's Representatives, including without limitation cost reports for the District Project. In addition the extent of detail and the nature of the format of such reports, the information compiled by the CMR and reports generated by the CMR shall specifically indicate the original Contract Price of each Trade Contract, the extent of adjustment to the original Contract Price for each Trade Contract by Owner approved Change Orders and the extent of potential further adjustment to the original Contract Price of each Trade Contract as of the date of the CMR's report based upon the Change(s) or potential Change(s) known to the CMR at the time of the CMR's preparation of a cost report for a Trade Contract. The CMR shall submit written reports to Owner once a month, or as otherwise mutually agreed, which summarize and track construction costs.

4.3 Payments to Trade Contractors.

4.3.1 Trade Contractors' Applications for Progress Payments. The CMR shall develop and implement procedures for Trade Contractors' submittal of Applications for Progress Payments and the review, processing and disbursement of Progress Payments to Trade Contractors, along with associated forms and reporting systems. The CM shall ensure that all Trade Contractor applications conform to the Schedule of Values submitted by the individual Trade Contractors pursuant to the requirements of the Trade Contract Documents. The Application for Progress Payment shall be submitted on appropriate forms approved by the Owner which are the same, or substantially similar to AIA Forms G702 and G703. The CMR shall, along with the Architect and Inspector, review and certify to the District the amount due on Trade Contractors' Application for Progress Payment, CMR's Progress Payment certifications shall constitute the CMR's representation to the Owner that, based on CMR's observations and professional evaluation at the Site, the data in each Application for Progress Payment, and to the best of CMR's knowledge, information and belief, the Work has progressed to the point indicated in the Application for Progress Payment and the quality of the Work is in generally in accordance with the Contract Documents for the Trade Contract subject only to results of subsequent tests, inspections and other procedures, minor deviations from requirements of the Trade Contracts correctable prior to completion and any specific qualifications expressed by CMR in its certification. CMR's issuance of a Certificate pursuant to the preceding shall be a representation that the Trade Contractor(s) is/are entitled to payment in the amount so certified. The CMR's review of Applications for Progress Payment shall be undertaken and completed in a timely manner so

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that its Progress Payments due each Trade Contractor are disbursed within the
time permitted by applicable law without incurring interest liability or other
penalties/liabilities. Construction payments will have a ten percent (10%)
retention authorized until Trade Contractor's work has been formally accepted
per Public Contract Code.

4.3.2 **Owner Disbursement of Progress Payments.** The Owner shall disburse
proceeds to the CMR due for progress payments due Trade Contractors under
a Trade Contract upon the CMR's presentation of: (a) the Trade Contractor's
request for payment; (b) documentation supporting the Trade Contractor's
payment request; and (c) the verification/certification from the CMR,
Architect and Inspector of the amount due the Trade Contractor on such
payment request, based on the applicable provisions of the Trade Contract.
Within mutually agreed upon number of calendar days of the date of the
CMR's submission of all of the foregoing to the Owner, the Owner shall make
payment to the CMR of the amount verified by the CMR, Architect and
Inspector as being due the Trade Contract, except to the extent that the
Owner's payment of such amount or any portion thereof is: (a) subject to
withholdings for Stop Notice, Prevailing Wage Rate violations or other
withholdings of payment(s) due the Trade Contract under the terms of the
Trade Contract or by operation of law; or (b) in excess of the GMCC as that
term is defined herein. Within mutually agreed upon number of calendar days
of its receipt from the Owner of a payment designated for a Trade Contractor,
the CMR shall disburse the same to the Trade Contractor.

4.3.3 **Form and Timing Of Submission And Disbursement.** The CMR shall
implement a process pursuant to which it collects all of the Trade Contractor’s
applications for payment for a given month and submits a single itemized
statement to the Owner, no later than the 30th day each month. This statement
shall identify the cumulative amount of Trade Contractor billings for which
the Owner will issue a check to the CMR. The Owner shall issue a check to
the CMR for the total amount identified in the statement within fifteen (15)
days of receipt. The CMR will then be responsible for making the payments
to the individual Trade Contractors. The statement will also include a separate
billing for the compensation due to the CMR for its services. Prior to seeking
payment for any CMR services related to the Trade Contractors, the CMR
shall compile all of the available Schedule of Values submitted by the Trade
Contractors and prepare for the Owner’s review and approval a Master
Schedule of Values including all of the Trade Contractors. The Owner shall
use this Master Schedule of Values to disburse all payments, but will issue the
payments due only to the CMR by separate check. CMR shall ensure that all
such progress payments for Trade Contractors are timely made under
applicable law, which requires that payment be made within thirty (30) days of
a properly submitted, undisputed payment request pursuant to Section
20104.50 of the Public Contract Code. The CMR shall indemnify the Owner against any and all claims arising from or related to the failure of the CMR to comply with the prompt payment requirements under the Public Contract Code unless the Owner makes payment to the CMR after thirty (30) days and the Owner’s late payment results in the CMR receiving payment designated for a Trade Contractor from the Owner, thirty (30) days after the CMR’s Application for Progress Payment.

4.4 **Substantial Completion: Punchlist.** Upon the Architect issuing a Certificate of Substantial Completion for a Trade Contract, the CMR shall inspect the Work of the Trade Contract to verify the Trade Contractor’s achievement of Substantial Completion. If upon such inspection, the CMR determines that notwithstanding the Architect’s issuance of the Certificate of Substantial Completion the Trade Contractor has not achieved Substantial Completion, the CMR shall: (a) meet and confer with the Architect to address/resolve differences between the CMR and the Architect; (b) notify the Owner in writing of its determination; (c) identify the portions of the Work of the Trade Contract to be completed in order for Substantial Completion to be achieved; and (d) set forth recommendations to the Owner for measures to secure Substantial Completion of the Trade Contract. If authorized by the Owner, the CMR shall enforce measures necessary to achieve Substantial Completion of a Trade Contract.

4.5 **Project Progress.**

4.5.1 **Master Project Schedule.** CMR shall, within mutually agreed upon days of the Assignment of Trade Contracts, develop an overall comprehensive Project Schedule for construction of the Project showing the activities of each of the Trade Contractors necessary for completion of Project construction ("Master Project Schedule") which is consistent with the Owner's objectives for completing Project construction. CMR will incorporate the Trade Contractors' separate Construction Schedules into the Master Project Schedule to the extent that the same do not impair the Owner's time objectives for completing Project construction. During the course of Project construction and based upon Trade Contractors' updated Construction Schedules, CMR shall monitor and update the Master Project Schedule on a monthly basis or more frequently as may be requested from time-to-time by the Owner so that the Owner is kept fully informed at all times of the status and progress of overall Project construction and the status of each Trade Contractors' construction progress. Where the actual rate of Project construction progress is behind that indicated by the Master Project Schedule, CMR shall advise and make recommendations to the Owner for remedial action. The CMR shall implement and enforce remedial measures as authorized by the Owner.

4.5.2 **Trade Contractors' Schedules.** CMR shall review the Trade Contractors' Construction Schedules and updates thereof, advising the Owner of...
compliance with the terms of the Trade Contract along with remedial measures appropriate to obtain compliance if necessary. The CMR shall implement and enforce remedial measures as authorized by the Owner.

4.5.3 **Coordination of Construction Activities.** CMR shall coordinate the activities of the Trade Contractors with each other and those of the CMR, the Architect, Inspector, Test/Inspection Service Providers, others and the Owner in conformity with the Master Project Schedule, including the coordination and sequencing of Trade Contractors' construction activities so that Site space is appropriately allocated and the progress of construction per the Master Project Schedule is maintained. Material obligations of the CMR under this Agreement are scheduling, coordination and sequencing the activities of the Trade Contractors in a manner so that Project construction is completed in accordance with the Guaranteed Maximum Construction Cost/ Guaranteed Completion Date (GMCC/GCD), as more particularly described herein.

4.5.4 **Progress Records.** CMR will maintain records of the progress of Project construction, including written progress reports and photographs reflecting the status of Project construction and percentage completion and submitted to the owner monthly. CMR will maintain daily records during Project construction showing weather conditions, Trade Contractors and their Subcontractors at the Site, work accomplished under each Trade Contract, problems encountered and other matters materially affecting the Project, completion of the Project or Construction Costs.

4.5.5 **Final Completion.** Upon the Inspector and/or the Architect issuing a Certificate of Final Completion for a Trade Contract, the CMR shall inspect the Work of the Trade Contractor and confirm that the Trade Contractor has fully complied with all requirements of the Trade Contract relating to the Work and the Trade Contractor's other obligations under the Trade Contract and that Final Completion under the Trade Contract has been achieved. If upon such inspection and confirmation, the CMR determines that notwithstanding the Certificate of Final Completion issued by the Inspector or the Architect, the obligations of the Trade Contractor under its Trade Contract have not been fully performed in accordance with the terms of the Trade Contract and that Final Completion has not been achieved, the CMR shall: (a) meet and confer with the Architect/Inspector to address and resolve differences concerning final completion; (b) notify the Owner in writing of its determination; (c) identify the portions of the Work of the Trade Contract or other obligations of the Trade Contractor to be completed in order for Final Completion to be achieved; and (d) set forth recommendations to the Owner for measures to secure Final Completion of the Trade Contract. If authorized by the Owner, the CMR shall enforce measures necessary to achieve Final Completion of the Trade Contract. Upon determining that Final Completion of
a Trade Contract has been achieved, the CMR shall issue its Certificate of Final Completion for that Trade Contract, as applicable.

4.6 **Site Observations.**

4.6.1 **CMR On-Site.** During Project construction and at all times during which there are construction activities under the Trade Contracts at the Site, CMR shall have its Project Manager or Field Superintendent at the Site, to observe, coordinate and manage the activities of the Trade Contractors. CMR shall maintain at the Site the Trade Contracts, Drawings, Specifications, approved Change Orders, Submittals, applicable codes, rules and regulations and other written or electronic materials relating to the District Project.

4.6.2 **Construction Quality.** The CMR shall guard the Owner against defects and deficiencies in construction and workmanship on the basis of its Site observations, and a quality control program established and implemented hereunder to monitor the workmanship of the Trade Contractors for conformity with: (a) accepted industry standards; (b) applicable laws, codes, regulations, ordinances or rules; or (c) and the requirements of the Trade Contracts. The CMR shall, without adjustment of the Contract Price hereunder or the GMCC (as that term is used and defined herein) be responsible and liable for the correction of any portion of the Project installed or constructed by a Trade Contractor which is not in conformity with: (a) accepted industry standards; (b) applicable laws, codes, regulations, ordinances or rules; or (c) the requirements of the Trade Contract.

4.6.3 **Site Safety.**

4.6.3.1 **General.** The CMR shall develop and implement Site safety programs as necessary to comply with applicable law, code, rule or regulation and as appropriate for the Site.

4.6.3.2 **Owner's Safety Program or Requirements.** Prior to any Trade Contractor's performance of Work at the Site, the CMR shall review the Owner's safety program or safety requirements, if any, meet and confer with the Owner's Representatives to review the Owner's safety program/requirements and to incorporate the same into the CMR's Site safety programs.

4.6.4 **Site General Conditions.** At all times during construction activities at the Site, the CMR shall provide or cause to be provided the items of personal property and services identified in Exhibit A (General Conditions Items) attached to this Agreement. The items and services identified in Exhibit A are included in the General Conditions Costs portion of Contract Price set forth in this Agreement. All exclusions from the General Conditions shall also be set forth in Exhibit A.
4.6.5 **Storm Water Pollution Prevention Plan (SWPPP).** CMR shall ensure that the responsibility for the preparation of the SWPPP for the Project, and all stormwater compliance required by law, is incorporated into one or more Trade Contracts. The CMR shall ensure compliance and enforcement of the SWPPP for all Trade Contractors working on the Project, at all times.

4.7 **Changes and Claims.**

4.7.1 **Coordination of Changes.** The CMR acknowledges that Changes to the scope or Work of a Trade Contract during construction of the Project are likely to increase the Project Construction Costs, extend time for completing Project construction and prevent the Owner from realizing its Project objectives. Accordingly, the CMR acknowledges and agrees that a material obligation of the CMR under this Agreement is management of circumstances which may give rise to a Change to a Trade Contract in a manner so that only necessary Changes are implemented and that the costs/time for implementation of necessary Changes are minimized. CMR shall coordinate and disseminate correspondence, drawings and other written materials by and between the Trade Contractors, the Owner, Owner's Representatives, Inspector, Test/Inspection Service Providers and the Architect relating to Changes to the Trade Contracts. CMR shall coordinate and oversee the Trade Contractors' performance of Changes authorized by the Owner to ensure timely and full completion of Changes. CMR will maintain a log or other written records to monitor the pendency and disposition of Changes and Change Orders to keep the Owner advised of the status of the same and the actual or potential impact of any particular Change or Change Order or the cumulative effects thereof on Construction Costs or time for completion of Project construction.

4.7.2 **CMR Notice to Owner; Owner Decisions.** Upon the CMR becoming aware of circumstances which will or may require the issuance of a Change Order, the CMR shall: (a) notify the Owner's Representatives of such circumstances in a prompt and timely manner taking into account the then existing circumstances of Project construction including without limitation the progress of Project construction, safety and factors affecting completion of the potential change; (b) develop, in conjunction with the affected Trade Contractor(s) and the Architect, alternative approaches to addressing the circumstances resulting in a potential change; (c) provide the Owner's Representatives with written or graphic materials describing, in detail, alternative approaches to the potential change, along with time/cost impacts of each alternative; and (d) provide the Owner's Representatives with written recommendations for the Owner's selection of an approach to address the potential Change along with a description of the basis for the CMR's recommendation. Upon receipt of all of the foregoing described notices and other information, the Owner shall make timely decisions regarding authorization to proceed with a Change; the
Owner's decisions shall be communicated in writing to the CMR through the Owner's Representatives.

4.7.3 **Processing of Changes and Change Orders.** CMR shall prepare Change Orders authorized by the Owner and distribute the same for execution by the Trade Contractor, Owner, Architect and Inspector. The CMR is not authorized, without the prior consent and authorization of the Owner, to effectuate or authorize any Change to any Trade Contract. The CMR shall be liable to the Owner for all direct and consequential costs, losses or damages resulting from the CMR's direction or authorization to effectuate a Change to any Trade Contract without the prior direction and authorization of the Owner. The CMR shall administer submission of Owner authorized changes to regulatory agencies with jurisdiction over such changes by the Architect/Inspector; the CMR shall confirm, in writing, to the Owner's Representatives that all necessary regulatory approvals have been obtained for Owner authorized Changes; if necessary regulatory approvals have not been obtained or not obtained in a timely manner to avoid delay to Project construction and/or to avoid additional Project Construction Costs, the CMR shall notify the Owner's Representatives of such circumstances along with recommendations for securing such necessary approvals.

4.7.4 **Claims Handling.**

4.7.4.1 **General.** CMR shall develop a process and procedures for the review, evaluation, processing and disposition of claims asserted by Trade Contractors; CMR will make recommendations to the Owner as to merit, handling and disposition of Trade Contractors' claims. The CMR's obligations relating to Trade Contractor's claim shall continue notwithstanding completion of the Work under a Trade Contract or completion of Project construction, until all Trade Contractor claims are fully and finally resolved. The CMR shall ensure that its claims handling process and procedures are consistent with the claims requirements set forth the in the Trade Contract documents and California law. The CMR shall provide the Owner with notice and copies of all relevant claims information/documentation.

4.7.4.2 **Allocation of Responsibility for Trade Contractor Claims.** Liability of the CMR or the Owner for Trade Contractor Claims shall be based on the overall allocation of risks for Project Construction Costs as set forth in this Agreement. The Owner shall be liable for payments of a claim asserted under a Stop Notice filed against the Project proceeds for a Trade Contract only to the extent of: (a) undisbursed proceeds for that Trade Contract at the time that a Stop Notice is filed with the Owner; (b) the Owner has directed and
authorized additional Work under a Trade Contract. The CMR shall immediately provide the Owner and the Owner’s Legal Counsel with copies of all Stop Notices filed with the CM to ensure that Project funds are properly withheld for any valid Stop Notices, in accordance with State law.

4.7.5 **Emergencies.** In the event of emergency circumstances actually or potentially resulting in harm/injury to persons or property, the CMR shall, without prior notice or authorization of the Owner, take such actions or direct such actions by Trade Contractors as necessary to prevent or mitigate harm/injury to persons or property.

**ARTICLE 5**

**CONSTRUCTION PHASE**

5.1 **Review and Transmittal of Trade Contractor Close-Out Documents.** The CMR shall receive from the Trade Contractors the close-out documents and items to be submitted by each Trade Contractor under the terms of their respective Trade Contracts upon completion of obligations under a Trade Contract. The CMR shall, in conjunction with the Architect, review each Trade Contractor's close-out submittals to determine conformity with requirements of each Trade Contract; if the CMR determines that any Trade Contractor's close-out submittals are not in conformity with requirements of the Trade Contract, the CMR shall take necessary actions to secure compliance with the requirements of the Trade Contract. Within mutually agreed upon number of calendar days of receipt from a Trade Contractor, the CMR shall deliver to the Owner's Representatives all of the Trade Contractor's close-out submittals, except for the Trade Contractor's as-built drawings which the CMR shall transmit to the Architect for the Architect's preparation of the Record Drawings.

5.2 **CMR Project Records.** Within mutually agreed upon number of calendar days of the date of issuance of a Certificate of Final Completion for a Trade Contract, the CMR shall assemble and deliver to the Owner all of the Project records maintained during the Construction Phase by the CMR relating to the Trade Contract. Notwithstanding any provision of this Agreement to the contrary or any provision of law to the contrary, all documents, work product, whether of a tangible or intangible nature, whether in draft or final form and whether recorded in writing or any other medium, including without limitation, electronic files relating to the District Project or this Agreement are the sole and exclusive property of the Owner.

5.3 **Trade Contractors' Post-Construction Obligations.** If any Trade Contractor is obligated under the terms of its Trade Contract to provide work, labor materials or services after completion of Project construction, the CMR shall manage Trade Contractors' post-construction activities for conformity with requirements of the Trade Contract. The CMR shall secure Trade Contractors' compliance with their
respective post-construction obligations, including, but not limited to, assisting the Owner in enforcement of its warranty rights against the Trade Contractors after the filing of the Notice of Completion, and throughout the entire time period that the Owner possesses such warranty rights pursuant to the Trade Contracts.

5.4 **Project Reports.** The CMR shall monitor the filing of DSA reports and other actions required by applicable law, rule or regulation to be undertaken by the Architect, Inspector or Trade Contractors upon completion of Project construction. If the Architect, Inspector or any Trade Contractor have not filed reports or taken other actions required upon completion of Project construction, the CMR shall secure compliance by the Architect, Inspector or a Trade Contractor with regard to such requirements. The CMR will assist the Owner in completion of actions to be undertaken by the Owner upon completion of Project construction, including without limitation preparation of Notices of Completion for each Trade Contract.

5.5 **Project Closeout.** The CM shall assist the Owner and Architect in preparing and filing all documentation necessary to closeout the Project with DSA and the Office of Public School Construction (OPSC) and to obtain final DSA approval and certification.

**ARTICLE 6**

**CMR COMPENSATION**

6.1 **Contract Price for Basic Services.** Subject to adjustment pursuant to Section 6.2.4 below, the Contract Price for the CMR's performance of the Basic Services under this Agreement shall be **TWO MILLION ONE HUNDRED SEVENTY EIGHT THOUSAND AND NO/100 DOLLARS ($2,178,000.00)** and shall consist of the following components: (a) a lump sum fixed fee of **ONE HUNDRED SEVENTY FOUR THOUSAND FOUR HUNDRED FIFTY AND NO/100 DOLLARS ($174,450.00)** for completion of the Pre-Construction Phase of the Basic Services ("the Pre-Construction Price"); (b) a lump sum fixed fee equal to **EIGHT HUNDRED TWENTY FIVE THOUSAND AND 00/100 DOLLARS ($825,000.00)** for completion of the Construction/Post Construction, Construction and Post-Construction Phases of the Basic Services ("the Bid/Construction Price") in accordance with the GMCC; and (c) a not to exceed amount of **ONE MILLION ONE HUNDRED SEVENTY EIGHT THOUSAND FIVE HUNDRED FIFTY AND 00/100 DOLLARS ($1,178,550.00)** for the costs of General Conditions at the Site during the Construction Phase of the Project ("the General Conditions Price").

6.2 **CMR Guaranteed Maximum Construction Costs (GMCC) and Guaranteed Completion Date (GCD).** The CMR acknowledges and agrees that the Contract Price set forth in Article 6.1 above is based in part upon the CMR’s guarantee to the Owner of the maximum Construction Costs for the District Project ("the Guaranteed Maximum Construction Costs" or "GMCC") and the CMR’s guarantee of the date of
Substantial Completion of the District Project, which shall be no later than the date specified in the approved Final GMCC/Final GCD statement as described in Section 6.2.4 below ("the Guaranteed Completion Date" or "GCD"

6.2.1 **Establishment of GMCC; CMR Preparation of Initial Cost Estimate Statement.** In order to assist with the preparation of the Final GMCC, within ten (10) calendar days of the date of the final construction estimate and the completion of the Bid Documents, the CMR shall submit to the Owner's Representative for review and approval, a written statement setting forth the CMR's then current construction cost estimate (the "Initial Cost Estimate Statement") that is consistent based upon the Design Documents current as of the date of this Agreement. The Initial Cost Estimate Statement shall also include: (a) confirmation that the scope of the Project for which the Initial Cost Estimate Statement is submitted is identical to the scope of the Project to be bid by the Trade Contractors (if Alternate Bid Items are included in Trade Contractors awarded by the Owner, a confirmation that the Initial Cost Estimate Statement is inclusive of all Alternate Bid Items); (b) identification of items, if any, included in the scope of the Project and the Initial Cost Estimate Statement on the basis of an allowance amount rather than a fixed price amount (the statement shall specifically identify the amount of allowance allocated for each identified allowance item); (c) assumptions, if any, made by the CMR in arriving at the Initial Cost Estimate Statement which are not expressly set forth in the Design Documents; and (d) the anticipated date of Substantial Completion of construction of the District Project. The CMR's preparations of the Initial Cost Estimate Statement in accordance with the foregoing and within the time set forth above are material obligations of the CMR under this Agreement.

6.2.2 **Costs Excluded From GMCC.** The following costs are to be excluded from the GMCC and all estimates, all of which shall be paid directly by the District:

(a) fees, costs or expenses paid to the Architect and its Design Consultants,

(b) costs of salaries and benefits paid to Owner employees engaged in connection with the Project,

(c) costs, fees or expenses paid to the Inspector,

(d) costs, fees or expenses paid to Test/Inspection Service Providers,

(e) costs or fees for obtaining permits or approvals (except to the extent included in the scope of a Trade Contract awarded by the Owner), and

(f) costs, expenses or fees of Design Consultants and other consultants retained by the District in connection with the Project ("District Consultants").
6.2.3 **District’s Review of Initial Cost Estimate Statement.** If the Owner's Representative notifies the CMR of any Owner objections to the Initial Cost Estimate Statement, within ten (10) days after CMR submits the Initial Cost Estimate Statement, the Owner and CMR shall meet and confer in good faith to resolve objections interposed by the Owner and to reach mutual agreement as to the entirety of the Initial Cost Estimate Statement. Upon review and approval of the Initial Cost Estimate Statement, the Owner’s Representative shall counter-sign the statement and return a copy to the CMR.

6.2.4 **Final GMCC; Final GCD.** Within mutually agreed upon number of calendar days after the CMR's completing its review of all Bid Proposals for all Bid Packages and the CMR's determination of the identity of the responsible bidder submitting the lowest priced Bid Proposal for each Bid Package, the CMR shall prepare and deliver to the Owner's Representatives a written statement setting forth the proposed Final GMCC and confirming the Final GCD for the District Project for review and acceptance by the Owner. Within mutually agreed upon number of calendar days of the Owner's Representatives' receipt of the CMR's proposed Final GMCC and Final GCD, the Owner's Representatives shall advise the CMR of acceptance of the same or modifications thereto necessary for the Owner's acceptance. The CMR shall include in this statement, certification in writing that the GMCC includes all Construction Costs and costs associated with the Contract Price necessary to complete and deliver the Project, except for any adjustments to the GMCC allowed pursuant to this Agreement. If the Owner's Representatives advise the CMR of any modifications to the CMR's proposed Final GMCC or its proposed Final GCD, the CMR and Owner's Representatives shall meet and confer in good faith to address and fully resolve any objections or the CMR to the Owner's modifications to the CMR's proposed Final GMCC or its proposed Final GCD. Upon mutual agreement between the Owner and the CMR concerning the Final GMCC and the Final GCD, the CMR shall prepare and submit to Owner’s Representative, the written statement memorializing the agreed upon Final GMCC and Final GCD, the Owner’s Representative shall then counter-sign a copy of the statement and return a copy to the CMR.

6.2.5 **Adjustments to Final GMCC during Construction Phase.** The GMCC reflected in the GMCC Amendment prepared pursuant to this Agreement shall not be modified during the Construction Phase except in the event of the following circumstances: (a) the Owner directs and authorizes a Change to a Trade Contract which is related solely to Owner discretionary/initiated changes (the foregoing excludes any Changes resulting from the acts, errors, omissions or other willful misconduct of the CM, including, but not limited to any errors or omissions in the Design Documents which the CM, exercising its professional standard of care as a licensed general contractor, should have identified in its constructability review); (b) unanticipated field conditions which could not be reasonably foreseeable by the CMR are encountered under
a Trade Contract which requires Changes to the Trade Contract; (c) Changes to a Trade Contract are directed by a governmental agency with jurisdiction over the Project or portions thereof, which could not be reasonably foreseen or anticipated by the CMR at the conclusion of the Pre-Construction Phase of Basic Services under this Agreement; (d) Changes to a Trade Contract are necessitated by amendment(s) or enactment(s) of laws, rules, ordinances or regulations applicable to the Project or portions thereof which could not be reasonably anticipated or foreseen by the CMR at the conclusion of the Pre-Construction Phase of Basic Services; (e) Changes to a Trade Contract arising out of latent defects, errors or omissions in the Design Documents, which the CM, exercising its professional standard of care as a licensed general contractor, could not have identified in its constructability review; or (f) Changes to a Trade Contract resulting from emergencies not caused, in whole or in part, by the acts, omissions or other conduct of the CMR or its employees, agents or representatives. Adjustments to the Final GMCC, after approval of the relevant change order(s) to the applicable Trade Contract(s) by the Owner, shall be reflected in a written statement duly executed by the Owner and the CMR ("GMCC Adjustment Statement"). Notwithstanding any adjustments to the GMCC pursuant to the foregoing, the Contract Price for Basic Services under this Agreement shall not be modified.

6.2.6 **Adjustment to GCD during Construction Phase.** The Final GCD shall be subject to amendment during the Construction Phase only if: (a) the Final GMCC is modified in accordance with this Agreement and the modified GMCC directly affects the time for completion of Project construction; (b) the Owner directs or authorizes the suspension of construction of the Project as a whole, or suspension of construction under any Trade Contract and such directive or authorization actually delays Substantial or Final Completion of the Project; (c) the Owner directs or authorizes delays to construction of the Project as a whole or delays to construction under any Trade Contract and such directive or authorization actually delays Substantial or Final Completion of the Project; or (d) completion of construction of the Project is delayed by the acts or omissions of the Owner or its employees, agents or representatives (excluding delays caused by the acts, errors, omissions or other willful misconduct of the CM, including, but not limited to any errors or omissions in the Design Documents which the CM, exercising its professional standard of care, should have identified in its constructability review). Adjustments to the GCD on account of a circumstance described above, after approval of the relevant change order(s) to the applicable Trade Contract(s) by the Owner, shall be reflected in a GCD Adjustment Statement duly executed by the Owner and the CMR.

6.2.7 **CMR Notice of Adjustments to GMCC or GCD.** An express condition precedent to any obligation of the District to consider or to adjust the Final GMCC or the Final GCD is the CMR's delivery of written notice to the
District no more than the mutually agreed upon number of calendar days following the CMR’s initial awareness of a circumstance which the CMR believes is justification for adjustment of the Final GMCC or Final GCD. The failure of the CMR to deliver written notice to the District of the occurrence of circumstances the CMR believes is justification for modification of the Final GMCC or the Final GCD shall be deemed the CMR’s waiver of any right to modification of the Final GMCC or the Final GCD for such circumstances, if the District suffers actual prejudice by lack of notice. If the CMR provides such written notice, the District shall thereafter promptly consider the request and equitably adjust the Final GMCC or the Final GCD, as applicable. If the source or nature of a basis for adjustment of the Final GMCC or the Final GCD is on-going, the CMR’s delivery of written notice within the time set forth above after the Initial awareness of such event shall be deemed sufficient notice.

6.2.7.1 **GMCC Adjustments.** If the CMR has provided written notice in strict conformity with the foregoing, the extent of adjustment of the Final GMCC shall be equal to the amount of the adjustment of the Contract Price of the Trade Contract(s) affected by the circumstances set forth in Paragraph 6.2.5 of this Agreement.

6.2.7.2 **GCD Adjustments.** The GCD shall be adjusted only to the extent that Substantial Completion of Project construction is or will be delayed by circumstances justifying adjustment of the Final GCD, as forth in this Agreement. The CMR acknowledges and agrees that the adjustment of Contract Time under a Trade Contract which does not have an effect on the Substantial or Final Completion of the Project shall not be a basis for adjustment of the Final GCD.

6.2.8 **Mutual Contingency.** In addition to the amount of the Final GMCC, upon mutual agreement of the Owner and the CMR on the amount of the Final GMCC, the CMR and Owner shall establish a contingency amount equal to THREE AND A HALF PERCENT (3.5%) of the Final GMCC ("the Mutual Contingency"). The mutual contingency shall be used and expended for unforeseen site conditions, and for changes evaluated on a case-by-case basis as agreed to by the Owner and CMR if such changes are determined to have been unreasonable to foresee and are not included in the CMR’s Constructability Review ("Site Conditions and Changes). If agreed, the mutual contingency shall be used to pay for additional construction costs necessarily incurred to address and resolve such unforeseen site conditions, and changes. All such costs reflected in Owner approved Change Orders to Trade Contractors relating to such unforeseen Site Conditions shall be deducted from the Mutual Contingency until the Mutual Contingency is exhausted. The foregoing notwithstanding, no portion of the Mutual Contingency may be applied to costs arising out of unforeseen site conditions and changes at the
Site unless approved by the Owner. Any portion of the Mutual Contingency applied to costs arising out of unforeseen Site conditions and changes shall be reflected in a written instrument duly executed on behalf of the CMR, Architect, DSA and Owners as necessary Costs for addressing and resolving such unforeseen site conditions and changes which exceed the Mutual Contingency shall be funded by the Owner. If upon Final Completion of the Project there is any remaining balance of the Mutual Contingency, the remaining balance shall be allocated **seventy-five percent (75%) to the Owner and twenty-five percent (25%) to the CMR.** In such event, the Owner will make payment of the portion of the remaining balance of the Mutual Contingency due the CMR within mutually agreed upon number of calendar days of the date of Final Completion of the Project.

6.2.9 **CMR Responsibility for Construction Costs Exceeding Final GMCC.** If the Project Construction Costs exceed the Final GMCC, including all adjustments thereto in accordance with this Agreement, the CMR shall be solely responsible for all Construction Costs exceeding the Final GMCC, as adjusted. If a Change Order, or portion thereof, is authorized by the Owner and issued for any purpose other than the circumstances set forth in Paragraph 6.2.5 of this Agreement, within mutually agreed upon number of calendar days of the issuance of such Change Order, the CMR shall deposit with the Owner the amount of each such Change Order attributable to circumstances other than those described in Paragraph 6.2.5 of this Agreement. The CMR's timely and complete deposit of funds pursuant to the foregoing is a material obligation of the CMR under this Agreement.

6.2.10 **CMR Responsibility for CMR Caused Delays.** If Substantial Completion of the Project occurs after the GCD (including adjustments to the GCD in conformity with this Agreement) and such delay is caused by the CMR, the CMR acknowledges and agrees that the District will sustain losses, damages and costs which are extremely difficult to fix and ascertain. Accordingly, if Substantial Completion of the Project is not achieved within the GCD (including adjustments thereto) due to acts, omissions or other conduct of the CMR, the CMR agrees to pay to the Owner as damages and not a penalty, the amount of **FIVE THOUSAND AND 00/100 DOLLARS ($5,000)** per calendar day beyond the adjusted GCD date until Substantial Completion of the Project is achieved ("CMR Liquidated Damages"). If acts or omissions of the CMR cause Substantial Completion of the Project not to be achieved as of the applicable GCD and there is any remaining balance of the Contract Price for Basic Services held by the Owner at such time, the Owner may thereafter withhold disbursement(s) of the Contract Price for Basic Services and General Conditions otherwise due the CMR under this Agreement, such withheld amounts will be credited to any balance due the Owner from the CMR. If after application of the credit balance described in the preceding sentence or if there is no remaining balance of the Contract Price for Basic Services or if the
Owner elects not to exercise its rights under this Agreement to withhold the Contract Price from payment to the CMR, there is any amount of CMR Liquidated Damages due from the CMR to the Owner, the CMR shall make full payment of such amount within thirty (30) calendar days of the District's demand therefor. The CMR's obligations hereunder are material and shall survive termination of the Agreement or completion of Project construction.

6.3 **District Payments of the Contract Price.**

6.3.1 **Payment of the Pre-Construction Price.** Upon commencement of the Pre-Construction Phase work, the CMR shall submit a monthly invoice to the Owner for a progress payment of the Pre-Construction Price prorated over the anticipated duration for such services as set forth in the approved schedule for Pre-Construction Services described in Section 3.1.1.

6.3.2 **Payment of Construction/Post-Construction Price.** Commencing in the month in which the CMR issues the first Notice to Proceed to a Trade Contractor, and in each month thereafter until the Project is completed, CMR shall submit to Owner on forms approved by Owner a written request for payment of the remaining Bid/Construction Price with such supporting data as Owner may request, covering the amount of the Project work then completed. Unless specified otherwise, such request and supporting data shall be submitted by CMR so that it is received by Owner no later than the last day of the month preceding the month in which payment will be made. Upon Owner’s approval, Owner will make a progress payment of the Construction/Post Construction Price to the CMR in the amount of ninety per cent (90%) of the estimated value of the Project work performed through the date of the payment request.

6.3.3 **Payment of General Conditions Price.** Commencing in the month in which the CMR issues the first Notice to Proceed to a Trade Contractor, and in each month thereafter until the Project is completed, CMR shall submit to Owner on forms approved by Owner a written request for payment of the remaining General Conditions Price with such supporting data as Owner may request, covering the amount of the Project work then completed. Unless specified otherwise, such request and supporting data shall be submitted by CMR so that it is received by Owner no later than the last day of the month preceding the month in which payment will be made. Upon Owner’s approval, Owner will make a progress payment of the General Conditions Price prorated over the term of the GCD to the CMR in the amount of ninety per cent (90%) of the estimated value of the Project work performed through the date of the payment request.

6.3.4 **District Payments of Contract Price.** Within mutually agreed upon number of calendar days of the date of the District's receipt of CMR's billing invoices,
District will make payment to CMR of undisputed amounts of the Contract Price due for Basic Services, authorized Additional Services, General Conditions costs and Allowable Reimbursable Expenses. No deductions shall be made or withheld from payments due CMR hereunder on account of any penalty, assessment, liquidated damages or other amounts withheld by the District from payment to the Architect or any Trade Contractor. The District may, however, withhold or deduct from amounts otherwise due CMR hereunder if CMR shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CMR has fully cured it failure of performance, less costs, damages or losses sustained by the District as a result of such failure of performance of a material obligation hereunder.

ARTICLE 7

INSURANCE AND INDEMNITY

7.1 CMR Insurance.

7.1.1 Workers’ Compensation and Employer’s Liability Insurance. CMR shall purchase and maintain Workers’ Compensation Insurance covering claims under workers’ or workmen’s compensation, disability benefit and other similar employee benefit acts under which CMR may be liable. CMR shall purchase and maintain Employer’s Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee’s employment by CMR. The Employer’s Liability Insurance required of CMR hereunder may be obtained by CMR as a separate policy of insurance or as an additional coverage under the Workers’ Compensation Insurance required to be obtained and maintained by CMR hereunder.

7.1.2 Commercial General Liability and Property Insurance. CMR shall purchase and maintain Commercial General Liability and Property Insurance as will protect CMR from the types of claims set forth below which may arise out of or result from CMR’s services under this Agreement and for which CMR may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than CMR’s employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by CMR, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; (v) contractual liability insurance applicable to CMR’s obligations under this Agreement; and (vi) for completed operations. The Owner shall
each be an additional named insured to CMR's Commercial General Liability insurance policy.

7.1.3 **Professional Liability Insurance.** CMR will procure and maintain professional liability insurance covering claims arising out of the performance of services under this Agreement.

7.1.4 **Coverage Amounts.** Minimum coverage amounts for policies of insurance obtained by the CMR hereunder shall be as follows:

<table>
<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum Coverage Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Worker's Compensation</td>
<td>In accordance with applicable law</td>
</tr>
<tr>
<td>Employer's Liability</td>
<td>One Million Dollars ($1,000,000)</td>
</tr>
<tr>
<td>Commercial General Liability</td>
<td>Two Million Dollars ($2,000,000) per occurrence; Two Million Dollars ($2,000,000) in the aggregate and Five Million Dollars ($5,000,000) umbrella excess liability</td>
</tr>
<tr>
<td>(including coverage for automobile liability and property casualty)</td>
<td></td>
</tr>
<tr>
<td>Professional Liability</td>
<td>Two Million Dollars ($2,000,000) per occurrence and Four Million Dollars ($4,000,000) in the aggregate</td>
</tr>
</tbody>
</table>

7.1.5 **Policy Endorsements; Evidence of Insurance.** CMR shall deliver Certificates of Insurance to the Owner's Representatives which evidence each of the policies of insurance in the minimum coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) authorized to issue insurance by the State of California and to the reasonable satisfaction of the Owner. Coverages under each policy of insurance, whether by endorsement or otherwise, shall provide that such policy will not be materially modified, canceled or allowed to expire without at least thirty (30) calendar days advance written notice to the Owner. All policies shall contain a provision stating that the CMR’s policies are primary insurance and that the insurance of the Owner or any other named insured shall not be
called upon to contribute to any loss. All policies shall have a project specific aggregate.

7.1.6 **Builders Risk Insurance.** During the progress of construction of the Project, the parties shall discuss, review, and mutually agree in writing as to the responsibility and costs necessary for provision of one or more policies of Builder's Risk Completed Value Insurance covering all insurable work of the Project, including extended coverage and insurance against vandalism and malicious mischief, perils of fire, sprinkler leakage, acts of civil authorities, collapse and flood, to the full insurable value of the work of the Project and coverage for work of the Project whether in progress or completed. The Owner and CMR waive all rights against the other, the Architect, and the Trade Contractors for damages caused by perils covered by insurance obtained under this provision. The policy (ies) of Builders Risk Insurance shall contain express waivers of subrogation by the insurer(s) issuing such policy (ies) to the extent of damages or losses covered thereunder.

If the parties elect to have the CM obtain the Builder's Risk Insurance, the Owner will require the CM to obtain a Builders Risk Insurance policy; such policy will contain the appropriate waivers of subrogation described above. If requested by Owner, the CM shall provide Owner with three competitive quotes for the insurance of which Owner shall select one quote. Owner shall reimburse CM the actual cost of the Builder's Risk Insurance and pay all deductibles required. Similarly, if Owner secures Builder's Risk Insurance, Owner shall likewise pay any deductibles required.

7.2 **District General Liability Insurance.** Owner shall obtain and maintain General Liability Insurance covering Owner for claims of bodily injury, death or property damage arising out of the Project.

7.3 **Indemnity.**

7.3.1 **CMR Indemnity of Owner.** CMR shall indemnify, defend and hold harmless the Indemnified Parties from all claims, demands, liabilities, losses, expenses, costs, damages, actions and causes of action of any kind, type or nature including those of the Trade Contractors and other third parties arising out of this Agreement or the Project, including without limitation, claims for bodily injury, death, physical property damage (other than to the work of the Project itself and property damage covered by the Builders Risk Insurance obtained by the CMR or Trade Contractors) and demands, damages, expenses, losses, liabilities or other claims arising out of CMR's services hereunder or the negligent, willful acts, omissions, or other conduct of CMR, except to the extent caused by the active negligence or willful misconduct of an Indemnified Party. The Indemnified Parties are: the District, the District Superintendent, the District's Board of Trustees, and all individual members of the District
Board of Trustees and the District Board of Trustees and the employees, officers, agents and representatives of the District. The CMR's obligations hereunder shall survive termination of this Agreement and the completion of obligations hereunder, until barred by the applicable statute of limitations. The CMR acknowledges and agrees that it shall not assert and expressly waives assertion of any defense or diminution of its obligation to defend, indemnify and hold harmless the Indemnified Parties based upon its actions or performance as an agent of the Owner.

7.3.1.1 **Notwithstanding Section 7.3.1.** CMR shall not be required to indemnify, defend, and hold harmless, nor shall CMR be required to name as additionally insured, the Architect or Project Inspector for any and all liability resulting from architectural, design and/or engineering services.

7.3.2 **Owner Indemnity of CMR.** The Owner shall indemnify, defend and hold harmless CMR from all claims arising out of this Agreement, including without limitation, claims for bodily injury (including death) and physical property damage (other than to the work of the Project itself and property damage covered by the Builders Risk Insurance obtained by the Trade Contractors) which arise out of the negligent or willful acts, or omissions of the Owner.

**ARTICLE 8**

**TERMINATION; SUSPENSION**

8.1 **Termination for Default.** Either the Owner or CMR may terminate this Agreement upon seven (7) calendar days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the last calendar day following the date of the written termination notice, unless during such seven (7) calendar day period, the Party receiving the written termination notice shall commence to cure it default(s) and diligently thereafter prosecute such cure to completion. In addition to the District's right to terminate this Agreement pursuant to the foregoing, the Owner may terminate this Agreement upon written notice to CMR if: (a) CMR becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit of creditors or the filing by CMR or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for CMR or any of CMR's property on account of CMR's insolvency; or (b) if CMR disregards applicable laws, codes, ordinances, rules or regulations. If Owner exercises the right of termination hereunder, the amount due CMR, if any shall be based upon Basic Services and General Conditions Costs incurred or provided prior the effective date of the Owner's termination of this Agreement, reduced by losses,
damages, or other costs sustained by the Owner arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due, if any, shall be made by Owner only after completion of the Construction Phase of the Project. CMR shall remain responsible and liable to Owner for all losses, damages or other costs sustained by Owner arising out of termination pursuant to the foregoing or otherwise arising out of CMR's default hereunder, to the extent that such losses, damages or other costs exceed any amount due CMR hereunder for Basic Services or General Conditions Costs.

8.2 **Owner's Right to Suspend.** The Owner may, in its discretion, suspend all or any part of the construction of the Project, work under a Trade Contract or CMR's services hereunder; provided, however, that if the Owner shall suspend construction of the Project, work under a Trade Contract or CMR's services hereunder for a period of sixty (60) consecutive calendar days or more and such suspension is not caused by CMR or the acts or omissions of CMR, upon recession of such suspension, the Contract Price hereunder will be subject to adjustment to provide for actual costs and expenses incurred by CMR as a direct result of the suspension and resumption of Project construction or construction under a Trade Contract or CMR's services hereunder.

8.3 **Owner's Termination of Agreement for Convenience.** The Owner may, at any time, upon thirty (30) calendar days, or such other time as mutually agreed by the parties, advance written notice to CMR to terminate this Agreement for the Owner's convenience and without fault, neglect or default on the part of CMR. In such event, the Agreement shall be deemed terminated thirty (30) calendar days, or such other time as mutually agreed by the parties, after the date of the Owner's written notice to CMR or such other time as the District and CMR may mutually agreed upon. In such event, the Owner shall make payment of the Contract Price to CMR for services provided through the date of termination plus actual costs incurred by CMR directly attributable to such termination plus termination costs equal to **FIVE PERCENT (5%)** the remaining and unpaid Contract Price. Termination by the Owner pursuant to this Section (or Section 8.1) shall entitle the Owner to re-assignment of any or all Trade Contracts as described in Section 3.8.8 above.

8.4 **CMR Suspension of Services.** If the Owner shall fail to make payment of the Contract Price when due CMR hereunder, CMR may, upon seven (7) calendar days advance written notice to the Owner, suspend further performance of services hereunder until payment in full is received. In such event, CMR shall have no liability for any delays or additional costs of District Project construction due to, or arising out of, such suspension.
ARTICLE 9

GENERAL

9.1 Marginal Headings: Captions. The titles of the various Paragraphs of the Agreement and the Articles of these Conditions are for convenience of reference only and are not intended to and in no way shall enlarge or diminish the rights or obligations of CMR and Owner hereunder.

9.2 Cumulative Rights: No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by either party hereunder shall be deemed a waiver of any right or remedy afforded hereunder or acquiesce or approval of any breach or default by the other.

9.3 Notices. Notices CMR or Owner are required or desire to serve on the other shall be valid only if addressed to the other as set forth below or as modified by notice hereunder from time to time. Notices shall be effective only if by personal delivery requiring signature acknowledging receipt or by United States Mail, Certified, Return Receipt Requested, First Class, postage fully pre-paid. Notices effectuated by personal service shall be deemed effective as of delivery of such notices. Notices effectuated by United States Mail shall be deemed effective the third (3rd) working day after deposit in the United States Mail. Notices hereunder shall be addressed as follows:

If to District:

John R. Brown, Director of Facilities, Operations, and Planning
Southwestern Community College District
900 Otay Lakes Road,
Chula Vista, CA 91910

9.4 Disputes.

9.4.1 Continuation of CMR Services. Except in the event of the Owner's failure to make undisputed payment of the Contract Price due CMR, notwithstanding any disputes between Owner and CMR hereunder, CMR shall continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

9.4.2 Mandatory Mediation. All claims, disputes and other matters in controversy between the CMR and the Owner arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association ("AAA") and the Construction Mediation Rules of the AAA in effect at the time that a Demand For Mediation is filed. Mediation proceedings hereunder
shall be conducted in San Diego County. The Owner and CMR shall each bear their respective costs and expenses associated with or arising out of any mediation proceeding commenced hereunder, except that the administrative costs of the mediation proceedings and the fees/costs of the mediator(s) shall be borne equally between the Owner and the CMR. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the Owner or the CMR commencing judicial proceedings.

9.4.3 **Jurisdiction and Venue.** If any matter in controversy between the Owner and the CMR is not fully and finally resolved by mediation proceedings conducted pursuant to the foregoing, such unresolved matters in controversy shall be judicially resolved, unless otherwise mutually agreed to by the parties. Jurisdiction and venue for judicial proceedings relating to such unresolved matters in controversy shall be the San Diego County Superior Court, Central Division.

9.5 **Severability.** If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.

9.6 **CMR Accounting Records.** CMR shall maintain complete and accurate records of its personnel engaged in performing any service hereunder, personnel expenses and other General Conditions costs incurred in connection with performance under this Agreement. Records shall be maintained on the basis of generally accepted accounting principles applies consistently and shall be available for inspection or reproduction by the Owner upon the Project and the Agreement or the termination of this Agreement, CMR shall maintain accounting records for five (5) years or such longer period required by applicable law, code, rule or regulation, during which time such records shall be available to Owner or as otherwise required by law, code, rule or regulation for inspection or reproduction.

9.7 **Definitions.**

9.7.1 **Trade Contract.** A Contract for Construction awarded by the Owner to a Trade contractor for the construction of a portion of the Project.

9.7.2 **Trade Contractor.** A Trade Contractor to the Owner under a Trade Contract awarded by the District for construction of the Project.

9.7.3 **Design Documents.** The Drawings, Specifications, calculations and other work product and Instruments of Service prepared by or on behalf of the Architect for the Project. Design Documents include surveys, soils reports and other documents prepared for the Project by a licensed Architect or registered Engineer, whether under contract to the Architect or Owner.
9.7.4 **Architect.** The District has chosen (Gensler) Architects to provide design services to “the District Project.” References to the Architect include the (Gensler) Architect and its consultants retained to prepare or provide any portion of the Design Documents.

9.7.5 **Submittals.** Shop Drawings, Product Data or Samples prepared or provided by a Trade Contractor or a Subcontractor to a Trade Contractor or suppliers illustrating some portion of the work of the Project.

9.7.6 **Site.** The physical area for construction and activities relating to construction of the Project.

9.7.7 **Project Budget.** The Project Budget is the total costs allocated by the Owner for bidding and construction of the Project by the Trade Contractors, exclusive of fees and costs of the Architect, CMR and other consultants of the Owner, Site acquisition costs and the costs of furniture, furnishing and/or equipment for the Project which are not included in the scope of the Trade Contracts. The Project Budget established by the Owner may be modified by the Owner from time-to-time.

9.7.8 **Construction Cost Estimates.** Construction Cost Estimates are estimates of the then current costs of labor, materials, equipment and services plus a reasonable allowance for the Trade Contractors' profit, overhead and administrative cost as necessary to complete construction of the Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Trade Contractor bids for the Project and Changes in the Work during construction of the Project; the allowance for contingency costs shall be consistent with the contingency established by the Owner in the Project Budget, if any.

9.7.9 **Construction Costs.** The costs of labor, materials, equipment (inclusive of the Trade Contractors' administrative costs/profit) necessary to complete construction of the Project.

9.7.10 **Project Schedule.** The Project Schedule is a written or graphic description prepared by the CMR showing the various activities necessary to complete Project construction, and the sequencing of such activities. The Project Schedule shall incorporate each Trade Contractors' Construction Schedule.

9.7.11 **Construction Schedule.** A Construction Schedule is the written or graphic description of the scheduling, sequencing and interrelationships of activities necessary to complete a Trade Contract. Construction Schedules are prepared by the Trade Contractors for review by the CMR and acceptance by the District and for incorporation into the Project Schedule by the CMR.
9.7.12 **Construction Contract Documents.** The Contract Documents issued by or on behalf of the Owner under a Trade Contract for construction of a portion of the Project. Construction Contract Documents include all modifications issued by or on behalf of the District. Unless otherwise expressly stated, references to the Construction Contract Documents are referenced to all of the Contract Documents issued for all of the Trade Contracts awarded for Project construction.

9.7.13 **Substantial Completion.** Substantial Completion is when the Work of a Trade Contract and/or the Project has been completed and installed such that the Owner can take beneficial occupancy of such Work and the Work can be used or occupied for its intended purposes, subject only to minor corrections, repairs or modifications.

9.7.14 **Final Completion.** Final Completion is when all of the Work of a Trade Contract and/or the Project has been completed and installed (including items noted for correction, repair or modification upon Substantial Completion) and the Trade Contractor has completed all other obligations to be performed on its part under the Trade Contract.

9.8 **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the Owner and CMR concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or verbal. No term or condition of this Agreement shall be modified or amended except by writing executed by the District and CMR. This Agreement and the following enumerated documents constitute the entirety of the Agreement: the RFP, the RFP Response, and Exhibit "A" General Conditions Items/Services. Notwithstanding incorporation of the RFP and the RFP Response herein by reference, in the event of any conflict or inconsistency between the terms of this Agreement and any provision of the RFP or the RFP Response, the terms and provisions of this Agreement shall govern and control.

9.9 **Assignment or Transfer.** All Services to be furnished under this Agreement shall be deemed professional services. As such, the CMR shall have neither the right nor the power to assign, sublet, transfer or otherwise substitute its interest in or obligations under this Agreement without the prior written consent of the Owner.

9.10 **Prohibited Interests.**

9.10.1 **Conflict of Interest.** For the term of this Agreement, no member, officer or employee of the Owner, during the term of his or her service with the Owner, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

9.10.2 **Conflict of Employment.** Employment by the CMR of personnel on the payroll of Owner shall not be permitted in the performance of the Services,
even though such employment may occur outside of the employee’s regular working hours or on weekends, holidays or vacation time. Further, the employment by the CMR of personnel who have been on the Owner’s payroll within one year prior to the date of execution of this Agreement, where this employment is caused by and or dependent upon the CMR securing this or related Agreements with the Owner, is prohibited.

9.11 **Equal Opportunity Employment.** The CMR represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

9.12 **Independent Contractor.** CMR is retained as an independent contractor and is not an employee of Owner. No employee or agent of CMR shall become an employee of Owner.

9.13 **Drug/Smoke-Free Workplace.** The Owner and all Owner projects are “drug-free” and “smoke-free” workplaces and, as such, require that the CMR be subject to the requirements mandated by California Government Code Sections 8350, et seq., when on the Project site. The Drug-Free Workplace Act of 1990 requires that every person or entity awarded a contract or grant for the procurement of any property or service from a State agency certify that it will provide a drug-free workplace and, in that respect, comply with certain obligations set forth in that Act. In addition, the Drug-Free Workplace Act provides that each contract or grant awarded by the State agency may be subject to suspension of payments or termination for failure to comply with such Act. It is the sole responsibility of the CMR to police and oversee its personnel on the Project. If the CMR fails to comply with the Drug-Free Workplace Act or the smoke-free workplace policy of the Owner, the Owner may enforce its lawful rights to suspend pending or subsequent payments and to terminate this Agreement and may pursue all other rights and remedies it may have against the CMR at law and/or in equity.

9.14 **Prevailing Wages.** The CMR is alerted to the requirements of California Labor Code Section 1770 et seq. and, if applicable the Owner's LCP as described herein, which would require the payment of prevailing wages, where the services or any portion thereof are determined to be a public work as defined therein. The CMR shall provide support to the Owner's LCP provider as requested by Owner.

9.15 **Counterparts.** This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one in the same Agreement.

9.16 **Exhibits and Recitals.** All Exhibits and Recitals referenced in this Agreement and attached hereto are hereby incorporated by this reference into this Agreement.
9.17 **Right to Employ Other Consultants.** The Owner reserves the right to employ other consultants in connection with the Project, or to perform work related to the Project with the Owner's own forces. The CMR shall notify the Owner if any such independent action will in any way compromise the CMR's responsibilities under this Agreement.

9.18 **Severability.** If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.

9.19 **Third Party Rights.** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Owner and the CMR.

9.20 **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

9.20.1 This Agreement shall commence on **April 14, 2011**, and shall be terminated on **November 30, 2013**.

**IN WITNESS WHEREOF,** the Parties have executed this Agreement as of the date set forth above.

"**DISTRICT**"

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By: __________________________
Denise Whittaker
Interim Superintendent/President

"**CMR**"

BARNHART BALFOUR BEATTY

By: __________________________
Name: _________________________
Title: __________________________

Originator: Robert J. Temple, Interim Vice President for Business and Financial Affairs

Account No.:
5-45110-718734-970 (Building Central Plant - Prop R Funds)
5-46210-718734-970 (Building Central Plant - Prop R Funds)
5-45110-718722-970 (DeVore Stadium Field House - Prop R Funds)
5-46210-718722-970 (DeVore Stadium Field House - Prop R Funds)
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<tr>
<th>Miscellaneous Project Costs</th>
<th>CM GC's</th>
<th>Trade Contractor Work</th>
<th>Owner/AE or Reimbursable</th>
</tr>
</thead>
<tbody>
<tr>
<td>SUPERVISION/SUPERINTENDENT</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>FIELD OFFICE MOB/DEMOB/SETUP</td>
<td>X</td>
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<tr>
<td>FIELD OFFICE TRAILER RENTAL</td>
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<tr>
<td>CLERK</td>
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<tr>
<td>FIELD TELEPHONE and DATA MONTHLY SERVICE</td>
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<td>FIELD TOILETS</td>
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<td>SAFETY EQUIPMENT &amp; SIGNAGE (Including first aid kits)</td>
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<td>TEMPORARY FENCE (6' HIGH CHAIN LINK)</td>
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<tr>
<td>TEMPORARY FENCE WINDSCREEN</td>
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</tr>
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**PRECONSTRUCTION SERVICES**

- SUPERINTENDENT: X
- PROJECT MANAGEMENT: X
- CONSTRUCTABILITY REVIEWER: X
- ESTIMATOR: X
- BIM MANAGER: X

**NOTES:**

**NOT INCLUDED IN COST OF GENERAL CONDITIONS**

- BOND
- BUILDER'S RISK/COC INSURANCE (nomarkup on reimbursable)
- PROFESSIONAL LIABILITY INSURANCE (nomarkup on reimbursable)
- GENERAL LIABILITY AND PROPERTY INSURANCE (nomarkup on reimbursable)
- BUILDERS RISK DEDUCTIBLE
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Proposition R Construction Management at Risk Services and Architectural Services for Corner Lot Project, Central Plant, Replacement of DeVore Stadium Field House

RECOMMENDATION

Recommend award of RFP 116 for construction management at risk services and authorize the Superintendent/President to enter into contracts and any future amendments for the following:

1. Echo Pacific Construction (BPC) to provide professional construction management at risk services for the Corner Lot Project at a fixed fee equal to $1,475,000 (2.5% of the cost of construction estimated at Fifty-Nine Million Dollars) plus fixed fee pre-construction costs of $500,000, fixed lump sum fee general conditions costs of $2,085,000, normal and customary reimbursables at a 5% markup for a total fixed fee of $4,000,000.

2. Barnhart Balfour Beatty (BBB) to provide professional construction management at risk services for the Central Plant Project and replacement of the DeVore Stadium Field House at a fixed fee equal to $825,000 (2.5% of the cost of construction estimated at Thirty-Three Million Dollars) plus fixed fee pre-construction costs of $174,450, fixed lump sum fee general condition costs of $1,178,550 and normal customary reimbursables at a 5% markup for a total fixed fee of $2,178,000.

3. Modify the award of RFP 109 pertaining to Gensler by adding the Replacement of the DeVore Stadium Field House to the Central Plant project at the same percentage fee.

OVERVIEW

The Corner Parcel Project will consist of approximately 142,000 gross square feet of administrative and conference spaces, a college bookstore, food services, art gallery, culinary arts program, age appropriate fitness center, a college police station, and additional continuing education and instructional partnership spaces.

The District issued RFP 116 for construction management at risk services for the Corner Lot Project, Central Plant, Replacement of DeVore Stadium Field House, National City Higher Education Center.
new two-story facility, and Package 1 and 2 secondary impacts of Corner Lot Project. The District received a total of 17 proposals for the initial RFP. Proposals were reviewed for consistency to the requirements of the RFP, the experience of each firm with community colleges, their experience with construction management at risk delivery and/or lease/leaseback delivery method and the qualifications of each firm.

The top five firms were invited to interview for the Corner Lot Project. The interview committee consisted of a representative of the Academic Senate, a member of the community, Vice President for Human Resources, Vice President for Business and Financial Affairs, corner lot architect and two members of the bond program staff. The firms were asked to provide a presentation explaining their experience with construction management at risk or lease/leaseback delivery method and experience with projects of this magnitude. After extensive deliberations, the committee short listed two firms for final negotiations for the Corner Lot Project. Upon completion of the negotiations, EPC was recommended. They have experience managing projects of this magnitude and they were the number one choice of the committee. EPC is a local construction company and their corporate office is in San Diego. The owner was born in San Diego and resides in the San Diego area. The proposed staff are all local San Diego residents. The Project Superintendent, a 20-year resident of Chula Vista and an alumnus of Southwestern College, has constructed projects of this size and magnitude. EPC has averaged 98% local subcontractor participation on their projects in the local area.

The recommended fee structure, identified in number one above, includes preconstruction services, including constructability reviews, estimating, value engineering, scheduling and assisting with bid evaluation. In addition to preconstruction services, the other two components that are normal and customarily associated with this delivery method are the management fee and monthly general conditions costs; including site fencing, trailers, project managers, and project superintendents, etc. During negotiations the District obtained agreement from EPC that all three of these fees would be rolled into one fixed fee so that the District will know exactly what it will cost for construction management at risk services and to eliminate any disincentive to EPC to assist the District in reducing construction costs as would be the case if their fee was stated as a percentage of construction costs.

During the negotiations for the Corner Lot Project, it was determined that combining the building of the Central Plant and the replacement of the DeVore Stadium Field House in conjunction with the Corner Lot Project would be in the best interest of the District. This idea was discussed with the architectural firm, Gensler, who had been previously approved by the Governing Board to provide the design services for the Central Plant Project. They agreed that considerable savings on architectural services, construction and project management costs could be obtained by building one building instead of two.

BBB was the runner up construction management at risk firm for the Corner Lot Project. They have experience building central plants and stadiums, and it is recommended to assign them the Central Plant Project and replacement of the DeVore Stadium Field House. BBB has a local San Diego office. They have proposed all local San Diego staff with previous experience working on Southwestern College projects. Similar to EPC fee structure, the proposed BBB fees will all be fixed fees as well.

FISCAL IMPACT/ACCOUNT

0-45123-718741-970 (Corner Lot Project) Proposition R
0-45123-718734-970 (Central Plant Project) Proposition R
0-45123-718722-970 (Replacement of DeVore Stadium Field House) Proposition R

HAjf

2
### Proposition "R" CM @ Risk Selection

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ITEM #26B23
MEMORANDUM

TO:        Members of the Governing Board
          Southwestern Community College District

APPROVED BY:      Denise Whittaker
                  Interim Superintendent/President

SUBMITTED BY:    Robert J. Temple
                  Interim Vice President for Business and Financial Affairs

INITIATED BY:     John R. Brown, P.E.
                  Director of Facilities, Operations, and Planning

SUBJECT:        Ratification of Agreement with BCA Architects, Inc.
                  Corner Lot Project

RECOMMENDATION

Recommend Ratification of Agreement No. A3021.10, related to RFP 109, with BCA Architects, Inc., for architectural design services, for the period April 20, 2010 to December 31, 2014, inclusive, in an amount not to exceed of $3,162,500 plus $160,000 for direct expenses for a total contract amount not to exceed $3,322,500.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 109 and authorized the Superintendent/President on April 20, 2010 to enter into a contract with BCA Architects, Inc. to provide architectural services for the Corner Lot project at a fee equal to a maximum of 5.75% of the cost of construction estimated at Fifty-Five Million Dollars plus normal and customary reimbursable services.

Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education
There are additional amendments to the base contract incorporating excluded services that are forthcoming pending finalization of negotiations with BCA Architects, Inc.

The contract with BCA Architects, Inc. provides professional architectural design services and construction documents for the Corner Lot project. BCA Architects, Inc. has relevant project experience in similar size, scope, and complexity. This project will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $3,322,500 Cost to the District/Account No.:
5-45123-718701-970 (Corner Lot – Proposition R Funds)

RJD:mk
CONSTRUCTION PLANNING & DESIGN SERVICES
FOR PROJECT SCOPE
BY AND BETWEEN
ARCHITECT AND DISTRICT

1. **Parties and Date**

   This Agreement is made and entered into this 21st day of April, 2010, by and between the Southwestern Community College District (DISTRICT), a public school DISTRICT organized under the laws of the State of California with its principal place of business at 900 Otay Lakes Road, Chula Vista, CA 91910 ("DISTRICT") and Buntun, Clifford Associates, Inc., dba BCA Architects, Inc., with its principal place of business at 210 Hammond Avenue, Fremont, CA 94539 ("Architect"). DISTRICT and Architect are sometimes individually referred to as "Party" and collectively as "Parties" in this Agreement.

2. **Recitals**

   2.1 The DISTRICT is a public agency school DISTRICT organized under the laws of the State of California, with power to contract for the services provided for herein.

   2.2 The DISTRICT intends to receive proposals for: Architectural services related to the design of the "corner lot" at Southwestern Community College District.

   2.3 DISTRICT requires the services of a duly qualified and licensed architect to perform the services required by this Agreement. Architect represents that it is aware of the DISTRICT's plans with respect to the Project.

   2.4 Architect warrants that it is fully licensed, qualified, and willing to perform the services required by this Agreement; provided, however, that if Architect is a corporation or other organization, the Project Architect designated pursuant to Section 3.2, and not the Architect itself, shall be fully licensed to practice as an architect in the State of California.

3. **Terms**

   3.1 **Employment of Architect.** Architect promises and agrees to furnish to DISTRICT all labor, materials, tools, equipment, services, and incidental and customary work necessary to supply the professional architectural and related services necessary for the completion of the Project consistent with the provisions of this Agreement (hereinafter referred to as "Services"). Each Service will be further defined by individual task orders listed in Exhibit "A". The Services are more particularly described throughout this Agreement, including Exhibit "A" attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, any exhibits attached hereto and incorporated herein by reference, and all applicable local, state and federal laws, rules and regulations. All Services performed by Architect shall be subject to the sole and discretionary approval of the DISTRICT, which approval shall not be unreasonably withheld.

- I -

Initial/Signature:

ARCHITECT
DISTRICT
3.2 **Project Architect: Key Personnel.** Architect shall name a specific person to act as Project Architect, subject to the approval of DISTRICT. Architect hereby designates Paul C. Bunton, AIA, C18659, to act as the Project Architect for the Project. The Project Architect shall: (1) maintain oversight of the Project at all times; (2) have full authority to represent and act on behalf of the Architect for all purposes under this Agreement; (3) supervise and direct the Services using his or her professional skill and attention; (4) be responsible for the means, methods, techniques, sequences and procedures used for the Services; (5) adequately coordinate all portions of the Services; and (6) act as principal contact with DISTRICT and all contractors, consultants, engineers and inspectors on the Project. Any change in the Project Architect shall be subject to the DISTRICT's prior written approval, which approval shall not be unreasonably withheld. The new Project Architect shall be of at least equal competence as the prior Project Architect. In the event that DISTRICT and Architect cannot agree as to the substitution of a new Project Architect, DISTRICT shall be entitled to terminate this Agreement.

In addition to the Project Architect, Architect has represented to the DISTRICT that certain additional key personnel, engineers and consultants will perform the Services under this Agreement. Should one or more of such personnel, engineers or consultants become unavailable, Architect may substitute others of at least equal competence upon written approval of the DISTRICT. In the event that DISTRICT and Architect cannot agree as to the substitution of key personnel, engineers or consultants, DISTRICT shall be entitled to terminate this Agreement for cause. As discussed below, any personnel, engineers or consultants who fail or refuse to perform the Services in a manner acceptable to the DISTRICT, or who are determined by the DISTRICT to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by the Architect at the request of the DISTRICT. The key additional personnel, engineers and consultants for performance of this Agreement are as follows:

List on Next Page
### Architectural Team Members and License Numbers for Each

<table>
<thead>
<tr>
<th>Name</th>
<th>License No.</th>
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<tr>
<td>James Moore, AIA, LEED AP, Vice President</td>
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<tr>
<td>Samer Kwar, AIA, Associate</td>
<td>C-30668</td>
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<tr>
<td>David Rausch, AIA, Senior Associate</td>
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<td>Stephen Lane, AIA</td>
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3.3 **Hiring of Consultants and Personnel.**

3.3.1 **Right to Hire or Employ.** Architect shall have the option, unless DISTRICT objects in writing after notice, to employ at its expense architects, engineers, experts or other consultants qualified and licensed to render services in connection with the planning and/or administration of the Project, and to delegate to them such duties as Architect may delegate without relieving Architect from administrative or other responsibility under this Agreement. Architect shall be responsible for the coordination and cooperation of Architect's architects, engineers, experts or other consultants. All consultants, including changes in consultants, shall be subject to approval by DISTRICT in its sole and reasonable discretion. Architect shall notify DISTRICT of the identity of all consultants at least fourteen (14) days prior to their commencement of work in order to allow DISTRICT time to review their qualifications and decline consent to their participation on the Project if deemed necessary by DISTRICT in its sole and reasonable discretion.

3.3.2 **Qualification and License.** All architects, engineers, experts and other consultants retained by Architect in performance of this Agreement shall be qualified to perform the Services assigned to them, and shall be licensed to practice in their respective professions, where required by law.

3.3.3 **Standards and Insurance.** All architects, engineers, experts and other consultants hired by Architect shall be required to meet all of the same standards and insurance requirements set forth in this Agreement, unless other standards or requirements are approved by
the DISTRICT in writing. Unless changes are approved in writing by the DISTRICT, Architect's agreements with its consultants shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.3.4 Assignments or Staff Changes. Architect shall promptly obtain written DISTRICT approval of any assignment, reassignment or replacement of such architects, engineers, experts and consultants, or of other staff changes of key personnel working on the Project. As provided in the Agreement, any changes in Architect's consultants and key personnel shall be subject to approval by DISTRICT.

3.3.5 Draftsman and Clerical Support. Draftsmen and clerical personnel shall be retained by Architect at Architect's sole expense.

3.4 Standard of Care: Performance of Employees.

3.4.1 Standard of Care. Architect shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals qualified to perform the Services in the same discipline in the State of California, and to the extent Architect fails to meet their standard of care, shall be responsible to DISTRICT for any damages to DISTRICT and delays to the Project as specified in the indemnification provision of this Agreement. Without limiting the foregoing, Architect shall be responsible to the DISTRICT for any increased costs incurred by the DISTRICT to the extent any such delays in the design of the Project are caused by the negligent performance of the Architect. Architect represents and maintains that it is skilled in the professional calling necessary to perform the Services. Architect represents that all of its employees, architects, engineers, experts and other consultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Architect represents that it, its employees, architects, engineers, experts and other consultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services assigned to or rendered by them, and that such licenses and approvals shall be maintained throughout the term of this Agreement.

3.4.2 Performance of Employees. Any employee or consultant who is reasonably determined by the DISTRICT to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee or consultant who fails or refuses to perform the Services in a manner acceptable to the DISTRICT, shall be promptly removed from the Project by the Architect and shall not be re-employed to perform any of the Services or to work on the Project.
3.5 **Laws and Regulations.**

3.5.1 **Knowledge and Compliance.** Architect shall keep itself fully informed of and in compliance with all applicable local, state and federal laws, rules and regulations in any manner affecting the performance of the Services or the Project, and shall give all notices required of the Architect by law. Architect shall be liable, pursuant to the standard of care and indemnification provisions of this Agreement, for all violations of such laws and regulations in connection with its Services. If the Architect performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the DISTRICT, Architect shall be solely responsible for all costs arising there from. Architect shall, indemnify and hold DISTRICT, its officials, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any liability to the extent caused by Architect's failure to comply with such laws, rules or regulations.

3.5.2 **Drawings and Specifications.** Architect shall cause all drawings and specifications to conform to any applicable requirements of federal, state and local laws, rules and regulations, including, but not limited to, the California Building Code, the California Education Code, Titles 19, 21 and 24 of the California Code of Regulations, and any requirements of the Division of State Architect (including structural safety, fire/life safety and access compliance section), the State Department of Education and the California Department of General Services, in effect as of the time the drawings and specifications are prepared or revised during the latest phase of the Services described in Exhibit "A" attached hereto. Any significant revisions made necessary by changes in such laws, rules and regulations after this time, which were not known or reasonably should not have been known, by Architect may be compensated as Additional Services. Architect shall cause the necessary copies of such drawings and specifications to be filed with any governmental bodies with approval jurisdiction over the Project, in accordance with the Services described in Exhibit "A" attached hereto.

3.5.3 **Americans with Disabilities Act.** Architect will use its professional efforts to interpret all applicable federal, state and local laws, rules and regulations with respect to access, including those of the Americans with Disabilities Act ("ADA"). Architect shall inform DISTRICT of the existence of inconsistencies of which it is aware or reasonably should be aware between federal and state accessibility laws, rules and regulations, as well as any other issues which are subject to conflicting interpretations of the law, and shall provide DISTRICT with its interpretation of such inconsistencies and conflicting interpretations. Unless Architect brings such inconsistencies and conflicting interpretations to the attention of the DISTRICT and requests DISTRICT’s direction on how to proceed, the Architect's interpretation of such inconsistencies and conflicting interpretations shall be the sole responsibility and liability of Architect, and the Architect shall correct all plans, specifications and other documents prepared for the Project at no additional cost if its interpretations are shown to be incorrect. If Architect brings such inconsistencies and conflicting interpretations to the attention of the DISTRICT and request's DISTRICT's direction on how to proceed, Architect shall be responsible to the DISTRICT pursuant to the indemnification provision of this Agreement. DISTRICT acknowledges that the requirements of the federal and state accessibility laws are subject to various and possibly contradictory interpretations, and that the Architect cannot warrant or
guarantee that its interpretation will be correct. Architect will adhere to the standard of care provided for in this Agreement and will use its reasonable professional efforts and judgment in making its interpretations.

3.5.4 Permits, Approvals and Authorizations. Architect shall provide DISTRICT with a list of all permits, approvals or other authorizations required for the Project from all federal, state or local governmental bodies with approval jurisdiction over the Project. Architect shall then assist the DISTRICT in obtaining all such permits, approvals and other authorizations. The costs of such permits, approvals and other authorizations shall be paid by the DISTRICT.

3.6 Independent Contractor. DISTRICT retains Architect on an independent contractor basis and Architect is not an employee of DISTRICT. Architect is not an employee for state tax, federal tax or any other purpose, and is not entitled to the rights or benefits afforded to DISTRICT’s employees. Any additional personnel performing the Services under this Agreement on behalf of Architect shall also not be employees of DISTRICT, and shall at all times be under Architect’s exclusive direction and control. Architect shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Architect shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers’ compensation insurance.

3.7 Schedule of Services.

3.7.1 Timely Performance Standard. Architect shall perform all Services hereunder as expeditiously as is consistent with professional skill and care, as well as the orderly progress of the Project work so as not to be the cause, in whole or in part, of delays in the completion of the Project or in the achievement of any Project milestones, as provided herein. Specifically, Architect shall perform its Services so as to allow for the completion of the Project within the time required by the DISTRICT and within any completion schedules adopted for the Project. Architect agrees to coordinate with DISTRICT’s staff, contractors and consultants in the performance of the Services, and shall be available to DISTRICT’s staff, contractors and consultants at all reasonable times.

3.7.2 Performance Schedule. Architect shall prepare an estimated time schedule for the performance of Architect’s Services, including required elements of paragraph 3.5.4, to be adjusted as the Project proceeds. Such schedule shall be subject to the DISTRICT’s review and approval, which approval shall not be unreasonably withheld, and shall include allowances for periods of time required for DISTRICT’s review and approval of submissions, and for approvals of authorities having jurisdiction over Project approval and funding. If DISTRICT and Architect cannot mutually agree on a performance schedule, DISTRICT shall have the authority to immediately terminate this Agreement. The schedule shall not be exceeded by Architect, without the prior written approval of DISTRICT. If the Architect’s Services are not completed within the time provided by the agreed upon performance schedule, or any milestones
established therein, it is understood, acknowledged and agreed that the DISTRICT will suffer damage for which the Architect will be responsible pursuant to the indemnification provision of this Agreement (see Exhibit F).

3.7.3 **Excusable Delays.** Any delays in Architect’s work caused by the following shall be added to the time for completion of any obligations of Architect: (1) the sole actions or failure to act of DISTRICT or its employees; (2) the actions of those in direct contractual relationship not changed by the designer with DISTRICT, except those under this contract; (3) the actions of any governmental agency having jurisdiction over the Project; (4) the actions of any parties not within the reasonable control of the Architect; and (5) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of Architect. Neither the DISTRICT nor the Architect shall be liable for damages, liquidated or otherwise, to the other on account of such excusable delays.

3.7.4 **Request for Excusable Delay Credit.** The Architect shall, within ten (10) calendar days of the beginning of any excusable delay, notify the DISTRICT in writing of the causes of delay. DISTRICT will then ascertain the facts and the extent of the delay, and grant an extension of time for completing the Services when, in its sole judgment, the findings of fact justify such an extension. The DISTRICT’s findings of fact thereon shall be final and conclusive on the parties. Extensions of time shall apply only to that portion of the Services affected by the delay and shall not apply to other portions of the Services not so affected. The sole remedy of Architect for extensions of time shall be an extension of the performance time at no cost to the DISTRICT. If Additional Services are required as a result of an excusable delay, the parties shall mutually agree thereto pursuant to the Additional Services provision of this Agreement. Should Architect make an application for an extension of time, Architect shall submit evidence that the insurance policies required by this Agreement remain in effect during the requested additional period of time.

3.8 **Architect Services.** Architect shall fully and adequately complete the Services described in this Agreement and in Exhibit "A" attached hereto and incorporated herein by reference.

3.9 **Project Land and/or Geotechnical Engineering Survey.** If required pursuant to the scope of the Project, the Architect shall prepare or order to be prepared (as an additional service to the base agreement) a land survey of the Project site prepared by a registered surveyor or civil engineer, any other record documents which shall indicate existing structures, land features, improvements, sewer, water, gas, electrical and utility lines, topographical information and boundary dimensions of the site, and any other such pertinent information. If required pursuant to the scope of the Project, the Architect shall prepare or order to be prepared a geotechnical engineering (soil) survey including but not limited to soil borings of the Project site prepared by a registered geotechnical or civil engineer, any other record documents which shall indicate existing soils conditions, foundation designs and recommendations for structures and land features, and any other pertinent information per Title 24 and the building code.

3.9.1 **Testing.** It shall be the District’s responsibility to retain consultant(s) to conduct soils, geological or other tests required for proper design and inspection of the Project.
and furnish such surveys, borings, test pits, and other tests as may be necessary to reveal conditions of the site which must be known to determine soil condition or to ensure the proper development of the required drawings and specifications.

3.10 **Additional Architect Services.** At DISTRICT’s request, Architect may be asked to perform in-scope services not otherwise included in this Agreement, not included within the basic services listed in Exhibit "A" attached hereto, and/or not customarily furnished in accordance with generally accepted architectural practice. As used herein, "Additional Services" mean: (1) any work which is determined by DISTRICT to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary for the Architect to perform at the execution of this Agreement; or (2) any work listed as Additional Services in Exhibit "A" attached hereto. Architect shall not perform, nor be compensated for, Additional Services without prior written authorization from DISTRICT and without an agreement between the DISTRICT and Architect as to the compensation to be paid for such services. DISTRICT shall pay Architect for any approved Additional Services, pursuant to the compensation provisions herein, so long as such services are not made necessary through the fault of Architect pursuant to the indemnification provision of this Agreement. Such Additional Services shall not include any redesign or revisions to drawings, specifications or other documents when such revisions are necessary in order to bring such documents into compliance with applicable laws, rules, regulations or codes of which Architect was aware or should have been aware pursuant to the laws and regulations provision of this Agreement above.

3.11 **DISTRICT Responsibilities.** DISTRICT’s responsibilities shall include the following:

3.11.1 **Data and Information.** DISTRICT shall make available to Architect all necessary data and information concerning the purpose and requirements of the Project, including scheduling and budget limitations, objectives, constraints and criteria. As part of the budget limitation information, the DISTRICT shall provide the Architect with a preliminary construction budget ("DISTRICT’s Preliminary Construction Budget").

3.11.2 **Inspector of Record.** Appoint and pay, upon mutual agreement with Architect, an Inspector of Record as provided by state law. The Inspector of Record shall be qualified and approved by Architect and by the Division of State Architect, shall be under direction of the Architect, and shall be responsible to, and act in accordance with, the policies of DISTRICT and Title 24. The Inspector of Record shall be compensated by the DISTRICT and shall be under direct contract with the DISTRICT. The construction administration by Architect and its engineers or other consultants shall complement the continuous personal supervision of the Inspector of Record.

3.11.3 **Bid Phase.** Distribute construction documents to bidders and conduct the opening and review of bids for the Project.
3.11.4 **Testing.** Retain consultant(s) to conduct HAZMAT, chemical, mechanical, or other tests required for proper design and inspection of the Project to ensure the proper development of the required drawings and specifications.

3.11.5 **Required Inspections and Tests.** Retain consultant(s) to conduct materials testing and inspection, as required by Title 21 of the California Code of Regulations, or to conduct any other environmental or hazardous materials testing and inspection pursuant to any other applicable laws, rules or regulations. Provide test results to the Architect during the course of construction.

3.11.6 **Fees of Reviewing or Licensing Agencies.** Directly pay or reimburse the payment of all fees directly related to this Project as required by any reviewing or licensing agency, or other agency having approval jurisdiction over the Project.

3.11.7 **DISTRICT's Representative.** Designate a person to act as its representative for the performance of this Agreement ("DISTRICT's Representative"). The DISTRICT's Representative shall be authorized to act as liaison between Architect and DISTRICT in the administration of this Agreement and the Construction Documents, and shall have the power to act on behalf of the DISTRICT for all purposes under this Agreement. Such person shall assist Architect in observing construction of the Project and participating in the preparation of the Punch List Items required by Exhibit "A" attached hereto. DISTRICT may designate new and/or different individuals to act as DISTRICT's Representative from time to time. The DISTRICT's Representative shall render decisions in a timely manner so as to avoid unreasonable delay in the orderly and sequential progress of the Services, as provided in the excusable delay provisions of this Agreement above.

3.11.8 **Review and Approved Documents.** Review all documents submitted by Architect, including change orders and other matters requiring approval by the DISTRICT's Governing Board or other officials. DISTRICT shall advise Architect of decisions pertaining to such documents within a reasonable time after submission, so as not to cause unreasonable delay as provided in the excusable delay provisions of this Agreement above.

3.12 **Compensation.**

3.12.1 **Architect's Compensation for Basic Services.** Subject to adjustment under Exhibit "B" attached hereto, DISTRICT shall pay to Architect, for the performance of all Services rendered under this Agreement, a fixed basic service fee of $3,162,500 equal to 5.75% of the construction costs of $55,000,000 plus a lump sum of $160,000 for Direct Expenses of the Project ("Total Compensation"). This Total Compensation amount shall be based upon the scope of services in Exhibit "A" and task order(s) in Exhibit "B" and incorporated herein by reference. The Total Compensation, as may be adjusted upon mutual agreement pursuant to Exhibits "A" and "B" attached hereto, shall constitute complete and adequate payment for the Services provided under this Agreement.

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**Initials**

**Architect**

**District**
3.12.2 Payment for Additional Services. Additional Services may be authorized pursuant to the applicable provisions of this Agreement. If authorized, such Additional Services will be compensated at a flat rate or not to exceed fee based upon hourly rates in Exhibit "C" as mutually agreed upon by the parties. Architect shall be paid for Additional Services, as defined by this Agreement, so long as they have been approved in advance by the DISTRICT. If DISTRICT requires Architect to hire consultants to perform any Additional Services, Architect shall be compensated therefore at the rates and in the manner set forth in Exhibit "C" attached hereto and incorporated herein by reference, unless a flat rate or some other form of compensation is mutually agreed upon by the parties. DISTRICT shall have the authority to review and approve the rates of any such consultants. In addition, Architect shall be reimbursed for any expenses incurred by the Architect or consultants pursuant to the terms and conditions of Section 3.11.3.

3.12.2.2 Incentive for Obtaining Grant Funding

If the Architect, through their efforts in representing the District, obtains additional funding through various Local, State, and Federal agencies for this project, the Architect shall be entitled to receive an additional fee equal to 5% or 10% of the funds brought into the District. Examples of this may include:

- Otay Water District recycled water grant – 5%
- California Community College/IOU Partnership related monthly grant/program – 5%
- New grants not included above – 10%

3.12.3 Direct Expenses. Direct expenses are in addition to compensation for the Services and Additional Services. Architect shall be reimbursed for any expenses not evidenced by inclusion in Exhibit "C" attached hereto.

3.12.4 Payment to Architect. Architect's compensation and direct expenses shall be paid by DISTRICT to Architect no more often than monthly on a percentage of completion basis. Such periodic payments shall be made based upon received deliverables of work completed and the compensation rates indicated in Exhibit "C" attached hereto and incorporated herein by reference. In order to receive payment, Architect shall present to DISTRICT an itemized statement which indicates Services completed and the amount to be paid. The statement shall describe the amount of Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement, as well as those expenses for which reimbursement is requested for that statement period. DISTRICT shall, within thirty (30) days of receiving such statement, review the statement and pay all approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the parties in a mutually agreeable manner.

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with any authorized fee or rate schedule. In order to receive payment, Architect shall present to
DISTRICT an itemized statement which indicates the Additional Services completed, and the
amount to be paid. The statement shall describe the amount of Additional Services provided
since the initial commencement date, or since the start of the subsequent billing periods, as
appropriate, through the date of the statement. DISTRICT shall, within thirty (30) days of
receiving such statement, review the statement and pay all approved charges thereon pursuant to
the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the parties in
a mutually agreeable manner.

Upon cancellation or termination of this Agreement, Architect shall be
compensated as set forth in the termination provision herein.

3.12.5 Withholding Payment to Architect. The DISTRICT may withhold
payment, to the extent reasonably necessary to protect the DISTRICT from claims, demands,
causes of action, costs, expenses, liabilities, losses, damages, or injuries of any kind to the extent
arising out of or caused by the intentional or negligent acts, errors or omissions protected under
the indemnification provisions of this Agreement. Failure by DISTRICT to deduct any sums
from a progress payment shall not constitute a waiver of the DISTRICT's right to such sums.
The DISTRICT may keep any moneys which would otherwise be payable at any time hereunder
and apply the same, or so much as may be necessary therefore, to the payment of any expenses,
losses, or damages as determined by the DISTRICT, incurred by the DISTRICT for which
Architect is liable under the Agreement or state law. Payments to the Architect for compensation
and reimbursable expenses due shall not be contingent on the construction, completion or
ultimate success of the Project. Payment to the Architect shall not be withheld, postponed, or
made contingent upon receipt by the DISTRICT of offsetting reimbursement or credit from
parties not within the Architect's reasonable control.

3.12.6 Prevailing Wages. Architect is aware of the requirements of California
Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations,
Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of
prevailing wage rates and the performance of other requirements on certain "public works" and
"maintenance" projects. Since the Services are being performed as part of an applicable "public
works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total
compensation is $1,000 or more, Architect agrees to fully comply with and to require its
consultants to fully comply with such Prevailing Wage Laws. DISTRICT shall provide
Architect with a copy of the prevailing rates of per diem wages in effect at the commencement of
this Agreement. Architect shall make copies of the prevailing rates of per diem wages for each
craft, classification or type of worker needed to execute the Services available to interested
parties upon request, and shall post copies at the Architect's principal place of business and at
the Project site. Architect shall defend, indemnify and hold the DISTRICT, its elected officials,
officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or
interest arising out of any failure or alleged failure of the Architect or its consultants to comply
with the Prevailing Wage Laws.
3.12.7 Labor Compliance Program. Pursuant to Labor Code section 1771.7, the DISTRICT has implemented, staffed, and shall enforce a Labor Compliance Program ("LCP"). The Architect shall be required to comply with all the requirements of the DISTRICT's LCP and all applicable provisions of the California Labor Code.

3.13 Contract Term.

3.13.1 Term. The term of this Agreement shall be from CONTRACT START DATE until CONTRACT COMPLETION DATE according to the agreed upon schedule attached or until one of the following occurs: (i) the Project(s) is terminated or suspended by the District prior to completion; or (ii) the District terminates this Agreement pursuant to paragraph 3.13 herein.

3.13.2 Notice to Proceed. Architect shall not proceed with performance of any Services under this Agreement unless and until the DISTRICT provides a written notice to proceed.

3.14 Termination, Suspension and Abandonment.

3.14.1 DISTRICT's Termination for Convenience. DISTRICT hereby reserves the right to suspend or abandon, at any time and for any reason, all or any portion of the Project and the construction work thereon, or to terminate this Agreement at any time with or without cause. Architect shall be provided with at least seven (7) days advanced written notice of such suspension, abandonment or termination. In the event of such suspension, abandonment or termination, Architect shall be paid for Services and reimbursable expenses rendered up to the date of such suspension, abandonment or termination, pursuant to the schedule of payments provided for in this Agreement, less any claims against or damages suffered by DISTRICT as a result of the default, if any, by Architect. Upon the DISTRICT's request and authorization, Architect shall perform any and all Additional Services necessary to wind up the work performed to the date of suspension, abandonment or termination. Architect hereby expressly waives any and all claims for damages or compensation arising under this Section, except as set forth herein, in the event of such suspension, abandonment or termination.

3.14.2 DISTRICT's Termination for Cause. If DISTRICT determines that the Architect has failed to perform in accordance with the terms and conditions of this Agreement or an Architect Default has occurred, DISTRICT may terminate all or part of the Agreement for cause.
This termination shall be effective if Architect does not cure its failure to perform within fifteen (15) Days or, if the failure to perform cannot be cured within that period, if Architect does not commence to cure within fifteen (15) Days (or longer, if authorized in writing by DISTRICT) after notice of intention to terminate is given by DISTRICT. Such notice shall specify the failure in performance.

If a termination for cause occurs, DISTRICT will have the right to withhold monies otherwise payable to Architect until DISTRICT acceptance of all the documents contracted at the time of termination have been provided. If after termination, DISTRICT incurs additional costs, expenses or other damages in connection with the Services for which payment was withheld; such costs, expenses or other damages shall be deducted from the amounts withheld. If after delivery of contracted documents to the satisfaction of DISTRICT, the amounts withheld exceed cost incurred by DISTRICT to complete the Architect services, the balance will be paid to Architect. If the costs, expenses or other damages incurred by DISTRICT exceed the amounts withheld, Architect shall be liable to DISTRICT for the difference. The provisions of this paragraph are in addition to, and not a limitation upon, any other rights and remedies of DISTRICT under law or in equity.

3.14.3 Architect’s Termination for Cause. This Agreement may be terminated by the Architect upon thirty (30) days written notice to the DISTRICT only when the DISTRICT has substantially failed to perform its obligations under this Agreement. The written notice shall include a detailed description of the DISTRICT’s failure to perform, status of the work completed as of the date of termination together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, the Architect shall be compensated for services completed to the date of termination, together with compensation for such approved Additional Services performed after termination which are authorized by the DISTRICT to conclude the work performed to the date of termination. Upon the DISTRICT’s request and authorization, Architect shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

3.14.4 DISTRICT’s Suspension of Work. If Architect’s Services are suspended by DISTRICT, DISTRICT may require Architect to resume such Services within ninety (90) days after written notice from DISTRICT. When the Project is resumed, the Total Compensation and schedule of Services shall be equitably adjusted upon mutual agreement of the DISTRICT and Architect.

3.14.5 Documents and Other Data. Within seven (7) calendar days following suspension, abandonment or termination of this Agreement, Architect shall provide to DISTRICT all preliminary studies, sketches, working drawings, specifications, computations, and all other Project Documents, as defined in Section 3.14.1 below, to which DISTRICT would have been entitled at the completion of Architect’s Services under this Agreement. Upon payment of the amount required to be paid to Architect pursuant to the termination provisions of this Agreement, DISTRICT shall have the rights, as provided in this Agreement hereinafter, to use such Project Documents prepared by or on behalf of Architect under this Agreement. In the event of a dispute regarding the amount of compensation to which the Architect is entitled under

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the termination provisions of this Agreement, Architect shall provide all Project Documents to DISTRICT upon full payment for all services rendered of the undisputed amount. Architect shall have no right to retain or fail to provide to DISTRICT any such documents pending resolution of the dispute. Architect shall make such documents available to DISTRICT without additional compensation other than as may be approved as a reimbursable expense.

3.14.6 Employment of other Architects. In the event this Agreement is terminated in whole or in part as provided herein, DISTRICT may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

3.15 Ownership and Use of Documents: Confidentiality.

3.15.1 Ownership. Pursuant to California Education Code section 17316 and the requirements of the DISTRICT, all plans, specifications, original or reproducible transparencies of working drawings and master plans, preliminary sketches, architectural presentation drawings, structural computations, estimates and any other documents prepared pursuant to this Agreement, including, but not limited to, any other works of authorship fixed in any tangible medium of expression such as writings, physical drawings and data magnetically or otherwise recorded on electronically (hereinafter referred to as the "Project Documents") shall be and remain the property of DISTRICT. Although the official copyright in all Project Documents shall remain with the Architect or other applicable subcontractors or consultant, the Project Documents shall be the property of DISTRICT whether or not the work for which they were made is executed or completed. Upon full payment to the Architect for all services provided, within thirty (30) calendar days following completion of the Project, Architect shall provide to DISTRICT copies of all Project Documents required by DISTRICT. In addition, Architect and all subconsultants shall retain copies of all Project Documents on file for a minimum of ten (10) years following completion of the Project, and shall make copies available to DISTRICT upon the payment of reasonable duplication costs. Before destroying the Project Documents following this retention period, Architect shall make a reasonable effort to notify DISTRICT and provide DISTRICT with the opportunity to obtain the documents.

3.15.2 Right to Use. Architect grants to DISTRICT the right to use and reuse all or part of the Project Documents, at DISTRICT's sole discretion and with no additional compensation to Architect, for the following purposes:

(A) The construction of all or part of this Project;
(B) The repair, renovation, modernization, replacement, reconstruction or expansion of this Project at any time;
(C) The construction of another project by or on behalf of the DISTRICT for its ownership and use.

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Initial Date:  
ARCHITECT  
DISTRICT
DISTRICT is not bound by this Agreement to employ the services of Architect in the event such documents are used or reused for these purposes. DISTRICT shall be able to use or reuse the Project Documents for these purposes without risk of liability to the Architect or third parties with respect to the condition of the Project Documents, and the use or reuse of the Project Documents for these purposes shall not be construed or interpreted to waive or limit DISTRICT's right to recover for latent defects or for errors or omissions of the Architect.

Any use or reuse by DISTRICT of the Project Documents on any project other than this Project without employing the services of Architect shall be at DISTRICT's own risk with respect to third parties. If DISTRICT uses or reuses the Project Documents on any project other than this Project, it shall remove the Architect's seal from the Project Documents and indemnify and hold harmless Architect and its officers, directors, agents and employees from claims arising out of the negligent use or re-use of the Project Documents on such other project.

Architect shall not be responsible or liable for any revisions to the Project Documents made by any party other than the Architect, a party for which the Architect is legally responsible or liable, or anyone approved by the Architect.

3.15.3 License. This Agreement creates a non-exclusive and perpetual license for DISTRICT to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. Architect shall require any and all subcontractors and consultants to agree in writing that DISTRICT is granted a non-exclusive and perpetual license for the work of such subcontractors or consultants performed pursuant to this Agreement.

3.15.4 Right to License. Architect represents and warrants that Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Project Documents that Architect prepares or causes to be prepared pursuant to this Agreement. Architect shall indemnify and hold DISTRICT harmless pursuant to the indemnification provisions of this Agreement for any breach of this Section. Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents that were prepared by design professionals other than Architect and provided to Architect by DISTRICT.

3.15.5 Confidentiality. All Project Documents, either created by or provided to Architect in connection with the performance of this Agreement, shall be held confidential by Architect to the extent they are not subject to disclosure pursuant to the Public Records Act. All Project Documents shall not, without the written consent of DISTRICT, be used or reproduced by Architect for any purposes other than the performance of the Services. Architect shall not disclose, cause or facilitate the disclosure of the Project Documents to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Architect which is otherwise known to Architect or is generally known, or has become known, to the related industry shall be deemed confidential. Architect shall not use DISTRICT's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, website/internet, television or radio production or other similar medium without the written consent of DISTRICT.

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3.16 Indemnification.

3.16.1 Architect shall indemnify and hold DISTRICT, its directors, officials, officers, employees, free and harmless from all, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, to the extent to the extent caused by any negligence, recklessness, or willful misconduct of Architect, its officials, officers, employees, subcontractors, consultants or agents in the performance of the Services, the Project or this Agreement, including without limitation the payment of consequential damages and reimbursable and reasonable attorneys fees, expert witness fees and other related costs and expenses of defense.

3.16.2 For claims other than professional liability, Architect shall indemnify, DISTRICT all such aforesaid suits, actions or other legal proceedings brought or instituted against DISTRICT, its directors, officials, officers, employees. Architect shall pay and satisfy any judgment, award or decree that may be rendered against DISTRICT, its directors, officials, officers, employees in any such suits, actions or other legal proceedings. Architect shall also reimburse DISTRICT for the cost of any settlement paid by DISTRICT arising out of any such claims, demands, causes of action, costs, expenses, liabilities, loses, damages, injuries, suits, actions, or other legal proceedings to the extent caused by Architect’s negligent performance. Such reimbursement shall include payment for DISTRICT’s reasonable attorney’s fees and costs, including expert witness fees. Architect shall reimburse DISTRICT, its directors, officials, officers, employees and agents for any and all legal expenses and costs, including expert witness fees, incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Architect’s obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the DISTRICT, its directors, officials, officers, employees and agents.

3.17 Insurance.

3.17.1 Time for Compliance. Architect shall not commence Services under this Agreement until it has provided evidence satisfactory to the DISTRICT that it has secured all insurance required under this Section. In the event Architect fails to provide or maintain all required insurance, DISTRICT may, in its sole discretion, obtain such insurance and deduct the amount therefore from the Total Compensation.

3.17.2 Minimum Requirements. Architect shall, at its expense, procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Architect, its officials, officers, agents, representatives, employees or subcontractors. Such insurance shall meet at least the following minimum levels of coverage:

(A) Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (i) General Liability: Insurance Services Office.
Commercial General Liability coverage (occurrence form CG 0001); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); (3) Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and (4) Professional Liability: Coverage which is appropriate to the Architect's profession, or that of its consultants or subcontractors.

(B) **Minimum Limits of Insurance.** Coverage shall provide limits no less than: (1) General Liability: $1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: $1,000,000 per accident for bodily injury and property damage; (3) Workers' Compensation and Employer's Liability: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of $1,000,000 per accident for bodily injury or disease; and (4) Professional Liability: Not less than $1,000,000 per claim and aggregate.

3.17.3 **Professional Liability.** Architect and its consultants and subcontractors shall procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance with limits discussed in this Section. This insurance shall include contractual liability for Architect's negligence only.

3.17.4 **Insurance Endorsements.** The insurance policies shall contain the following provisions, or Architect shall provide endorsements on forms supplied or approved by the DISTRICT to add the following provisions to the insurance policies:

(A) **General Liability.** The general liability policy shall be endorsed to state that: (A) the DISTRICT, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the performance of the Agreement by the Architect, its officials, officers, agents, representatives, employees or subcontractors, including materials, parts or equipment furnished in connection with such services; and (B) the insurance coverage shall be primary insurance as respects the DISTRICT, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Architect's scheduled underlying coverage. Any insurance or self-insurance maintained by the DISTRICT, its directors, officials, officers, employees and agents shall be excess of the Architect's insurance and shall not be called upon to contribute with it in any way.

(B) **Automobile Liability.** The automobile liability policy shall be endorsed to state that: (A) the DISTRICT, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Architect or for which the Architect is responsible; and (B) the insurance coverage shall be primary insurance as respects the DISTRICT, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of the Architect's scheduled underlying coverage. Any insurance or self-insurance maintained by the DISTRICT, its directors, officials, officers,
employees and agents shall be excess of the Architect's insurance and shall not be called upon to contribute with it in any way.

(C) **Workers' Compensation and Employers Liability Coverage.** The insurer shall agree to waive all rights of subrogation against the DISTRICT, its directors, officials, officers, employees and agents for losses paid under the terms of the insurance policy which arise from work performed by the Architect.

(D) **All Coverages.** Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be canceled except after thirty (30) days prior written notice by mail, has been given to the DISTRICT; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the DISTRICT, its directors, officials, officers, employees and agents.

3.17.5 **Separation of Insureds: No Special Limitations.** All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the DISTRICT, its directors, officials, officers, employees and agents.

3.17.6 **Deductibles and Self-Insurance Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the DISTRICT. Architect shall guarantee that, at the option of the DISTRICT, either: (A) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the DISTRICT, its directors, officials, officers, employees and agents; or (B) the Architect shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.17.7 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the DISTRICT.

3.17.8 **Verification of Coverage.** Architect shall furnish DISTRICT with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the DISTRICT. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DISTRICT, if requested. All certificates and endorsements must be received and approved by the DISTRICT before work commences. The DISTRICT reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.17.9 **Subcontractor and Consultant Insurance Requirements.** Architect shall not allow any of its architects, engineers, experts or other consultants to commence work on any subcontract until they have provided evidence satisfactory to the DISTRICT that they have secured all insurance required under this Section. If requested by Architect, DISTRICT may approve different scopes or minimum limits of insurance for particular architects, engineers,
3.18 **Records.** Architect shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Architect shall allow a representative of DISTRICT during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Architect shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

3.19 **Standardized Manufactured Items.** Architect shall cooperate and consult with DISTRICT in the use and selection of manufactured items on the Project, including but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials and floor coverings. All such manufactured items shall be standardized to DISTRICT's criteria to the extent such criteria do not interfere with building design.

3.20 **Limitation of Agreement.** This Agreement is limited to and includes only the work included in the Project described herein. Any additional or subsequent construction at the site of the Project, or at any other DISTRICT site, will be covered by, and be the subject of, a separate Agreement for architectural services between DISTRICT and the architect chosen therefor by DISTRICT.

3.21 **Mediation.** Disputes arising from this Agreement may be submitted to mediation if mutually agreeable to the parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the parties.

3.22 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each party to this Agreement. However, Architect shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties or obligations without the prior written consent of DISTRICT. Any attempted assignment without such consent shall be invalid and void.

3.23 **Asbestos Certification.** Architect shall certify to DISTRICT, in writing and under penalty of perjury, that to the best of its knowledge, information and belief no asbestos-containing material or other material deemed to be hazardous by the state or federal government was specified as a building material in any construction document that the Architect prepares for the Project. Architect shall require all consultants who prepare any other documents for the Project to submit the same written certification. Architect shall include statements in its specifications that materials containing asbestos or any other material deemed to be hazardous by the state or federal government are not to be included.

3.24 **Disabled Veteran Business Enterprise Certification.** If required for this Project, Architect shall provide proof of DVBE compliance, in accordance with any applicable
policies of the DISTRICT or the State Allocation Board, within thirty (30) days of its execution of this Agreement. If Architect fails to comply with this requirement, the Agreement shall be deemed canceled.

3.25 **No Third Party Rights.** This Agreement shall not create any rights in, or inure to the benefits of, any third party except as expressly provided herein.

3.26 **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California. Venue shall be in San Diego County.

3.27 **Entire Agreement.** This Agreement, with its exhibits, contains the entire agreement of the parties hereto, and supersedes any and all other prior or contemporaneous negotiations, understandings and oral or written agreements between the parties hereto. Each party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all parties hereto.

3.28 **Severability.** Should any provision in the Agreement be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

3.29 **Non-Waiver.** None of the provisions of this Agreement shall be considered waived by either party, unless such waiver is expressly specified in writing.

3.30 **Safety.** Architect shall execute and maintain its work so as to avoid injury or damage to its employees or property. In carrying out its Services, the Architect shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees, consultants and subcontractors appropriate to the nature of the work and the conditions under which the work is to be performed.

3.31 **Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**DISTRICT:**

Southwestern Community College District  
900 Otay Lakes Road  
San Diego, CA 91910

Attn: DISTRICT POC

**ARCHITECT:**

BCA Architects, Inc.  
624 Broadway, Suite 304  
San Diego, CA 92101

Attn: Paul C. Bunton, AIA, President
Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.32 Attorney's Fees. If either party commences an action against the other party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing party in such litigation shall be entitled to have and recover from the losing party a percentage of reasonable attorney's fees and all other reasonable costs of such action, including expert witness fees and expenses, equal to the percentage of the total judgment lost.

3.33 Time of Essence. Time is of the essence for each and every provision of this Agreement.

3.34 DISTRICT's Right to Employ Other Consultants. DISTRICT reserves right to employ other consultants, including Architects, in connection with this Project or other projects.

3.35 Prohibited Interests.

3.35.1 Solicitation. Architect maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Architect, to solicit or secure this Agreement. Further, Architect warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Architect, any fee, commission, percentage, brokerage fee, worked on or contributed to DISTRICT facility bond campaigns, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability.

3.35.2 Conflict of Interest. For the term of this Agreement and for two (2) years after the conclusion of this contract, no director, official, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated benefit arising therefrom.

3.36 Equal Opportunity Employment. Architect represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or any other classification protected by federal or state law. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. Architect shall also comply with all relevant provisions of DISTRICT's minority business enterprise program, affirmative action plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.37 Labor Certification. By its signature hereunder, Architect certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-
insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.38 **Drug/Tobacco-Free Facilities.** All DISTRICT facilities are drug and tobacco-free facilities. Any drug and/or tobacco use (smoked or smokeless) is prohibited at all times on all areas of DISTRICT facilities.

3.39 **Fingerprinting Requirements.** Unless exempted, Architect shall comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the DISTRICT's pupils. The Architect shall also ensure that its consultants on the Project also comply with the requirements of Section 45125.1. To this end, the Architect and its consultants must provide for the completion of the certification form attached hereto as Exhibit "D" and incorporated herein by reference prior to any of the Architect's employees, or those of any other consultants, coming into contact with the DISTRICT's pupils.

3.40 **Subcontracting.** As specified in this Agreement, Architect shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of DISTRICT. Subcontracts, if any, shall contain a provision making them subject to each and every provision of this Agreement.

3.41 **Supplemental Conditions.** Any supplemental conditions shall be attached as an exhibit to this Agreement, and that exhibit shall be incorporated herein by reference.

3.42 **Exhibits and Recitals.** All Exhibits and Recitals contained herein and attached hereto are material parts of this Agreement and are incorporated as if fully set forth herein by this reference.

3.43 **Authority to Execute.** The persons executing this Agreement on behalf of their respective Parties represent and warrant that they have the authority to do so under law and from their respective Parties.

**DISTRICT**

By: [Signature]
Raj K. Chopra, Ph.D.
Superintendent/President

Attest: ____________________________
Name: ____________________________

**DESIGNER**

By: [Signature]
Name: ____________________________

[Stamp] [Stamp]
94-3087665
Federal Tax Identification Number

Initial Each Page:

ARCHITECT
DISTRICT
EXHIBIT "A"

ARCHITECT'S SCOPE OF SERVICES

1. GENERAL REQUIREMENTS.

1.1 Basic Services. Architect agrees to perform all the necessary professional architectural, landscape architectural, engineering (e.g. civil, mechanical, electrical, plumbing, structural, and any other necessary engineering services) and construction administration services for the Project in a timely and professional manner, consistent with the standards of the profession, including those provided for herein.

1.2 Exclusions from Basic Services. The following services shall be excluded from the basic services listed above.

- Off Site Improvements including:
  - Civil Engineering
  - Landscape Architecture
  - Electrical Engineering.
- Special Civil Engineering Services including:
  - Topographic Survey
  - Boundary Survey
  - Drainage and Hydrology Studies
  - Water Quality Technical Report
  - Water Studies
  - Sewer Studies
  - Site Phasing Plan
  - 3D Surface Modeling
  - Utility Modeling + Clash Detection
  - Encroachment Removal Agreements
- Underground Utility Scoping Services
- Parking Consultant including:
  - Structural Engineering
  - Mechanical / Plumbing Engineering
  - Electrical Engineering
- Food Service Consultant
- Waterproofing Consultant
- Water Feature Engineering
- Any other specialty consultants needed on the project.
1.3 **Additional Services.** The Architect shall perform the following additional services under this Agreement only if said services are authorized in advance in writing by the DISTRICT. Said additional services shall be compensated in accordance with schedule in Exhibit "C" or by separate addendum.

A. Revisions and changes in approved drawings and the preparation of alternate and/or deductive change orders requested by the DISTRICT, except as otherwise required by this contract, and excluding corrections of design errors, conflicts, and/or omissions by Architect in the work performed under this Agreement.

B. Supervision of repair of damage to the Project not resulting from fault of the Architect.

C. The preparation of measured drawings of pre-existing structures as authorized by the DISTRICT.

D. The additional services caused by the delinquency or insolvency of the contractor.

E. If directed or requested by the DISTRICT, the employment of special consultants, the preparation of special delineation of models, Testing and Inspection, Hospitality Interior Design services, Photovoltaic Infrastructure Services (including Structural and Electrical Engineering) and overtime work by the Architect's employees, except as otherwise required by this contract.

F. Providing contract administration services after the construction contract time has been exceeded through no fault of the Architect where it is determined that the fault is that of the contractor and liquidated damages are collected therefore.

G. Plan preparation and/or administration of work on portions of the Project separately bid;

H. Assistance to District, if requested for the selection of moveable furniture, equipment or articles which are not included in Construction Documents;

I. Revisions in drawings, specifications or other documents when such revisions are inconsistent with approvals or instructions previously given by the District and due to causes beyond the control of Architect;

J. Serving as an expert witness on District's behalf;

K. Supervision of repair of damages to structure.

L. Work required to obtain any local discretionary approvals (i.e. conditional use permits, etc.)
M. Revisions in drawings, specifications, or other documents and additional meetings that may be required as a result of errors, omissions, or revisions caused by consultants to the District.

N. Preparation and processing of additive or deductive change orders shall be paid at the same percentage of the basic service fee (5.75%).

O. The Architect shall be compensated at the same percentage of the basic service fee (5.75%) for Bid Alternates whether or not the alternates are implemented.

1.4 Cooperation and Communication with DISTRICT. Architect shall cooperate and participate in consultations and conferences with DISTRICT, DISTRICT's consultants, authorized representatives of DISTRICT, and/or other local, regional, or state agencies concerned with the Project, which may be necessary for the completion of the Project or the development of the drawings, specifications and documents in accordance with the applicable standards and requirements of law and the DISTRICT. Such consultations and conferences shall continue throughout the planning and construction of the Project and the contractor's warranty period. Architect shall take direction only from the DISTRICT's Representative, or any other representative specifically designated by the DISTRICT for this Project, including any construction manager hired by the DISTRICT.

1.5 Coordination and Cooperation with Construction Manager. The DISTRICT may hire a construction manager to administer and coordinate all or any part of the Project on its behalf. If the DISTRICT does so, it shall provide a copy of its agreement with the construction manager so that the Architect will be fully aware of the duties and responsibilities of the construction manager. The Architect shall cooperate with the construction manager and respond to any requests or directives authorized by the DISTRICT to be made or given by the construction manager. The Architect shall request clarification from the DISTRICT in writing if the Architect should have any questions regarding the authority of the construction manager.

1.6 In conjunction with the other duties described herein, the Architect shall continuously monitor construction costs and provide detailed estimates at the completion of the initial planning phase, schematic plan phase, the design development phase, and any time during the final working drawings and specifications phase when design revisions or market conditions result in a potential change to the previously provided estimate. These estimates should include a breakdown of the work elements as well as contingencies in an amount that corresponds to the level of design completion.

2. INITIAL PLANNING PHASE.

During the initial planning phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

2.1 Educational Programming. Assist DISTRICT in the preparation of educational programming for the Project to define the scope, size, space relationship and site development.
2.2 **Project Feasibility.** Provide advice and assistance to DISTRICT in determining the feasibility of the Project, analysis of the type and quality of materials and construction to be selected, the site location, and other initial planning matters, including, but not limited to, developing a building program identifying and confirming the facility functions, square footage requirements, adjacency relationships, flow diagrams and equipment needs (including a preliminary construction cost estimate based on area costs). Existing equipment needs, data and inventory to be provided by the DISTRICT.

2.3 **Meeting Budget and Project Goals.** Architect shall notify DISTRICT in writing of potential complications, cost overruns, unusual conditions, and general needs that potentially impact the Project budget and timeline, including the DISTRICT’s Preliminary Construction Budget. Architect shall use its best judgment in determining the balance between the size, type and quality of construction to achieve a satisfactory solution within the Project’s budget and construction allowance. It shall be the duty of the Architect to suggest alternatives to DISTRICT which would reduce costs and to design the Project within budget and State Community College’s construction cost standards, if any. As discussed below in Section 7 of this Exhibit, if the lowest responsive and responsible bid for the Project exceeds the budget by the stated percentage amount, Architect may be required to make the necessary changes in the drawings and specifications, at its sole cost and expense, to bring the bids within the required budget.

2.4 **Permits, Approvals and Authorizations.** As indicated in Section 3.5.4, Architect shall assist DISTRICT in securing easements, encroachment permits, rights of way, dedications, infrastructures and road improvements, as well as coordinating with utilities and adjacent property owners.

3. **SCHEMATIC PLAN PHASE.**

During the schematic plan phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

3.1 **Approval and Revisions.** DISTRICT shall review, study, and check the work product developed during the Initial Planning Phase and presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the DISTRICT’s Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all DISTRICT requested changes, additions, deletions, and corrections in such work product at no additional cost, so long as they are not inconsistent with earlier DISTRICT direction.

3.2 **Funding Documents.** If applicable, Architect shall provide a site plan and all other Project-related information necessary and required for an application by DISTRICT to any federal, state, regional, or local agencies for funds to finance the construction Project.

3.3 **Schematic Plans.** In cooperation with DISTRICT, Architect shall prepare the conceptual design of the Project, illustrating the scale and relationship of the Project components.
("Schematic Plans"). The Schematic Plans shall include a conceptual site plan, if appropriate, and preliminary plans and studies, sections, elevations, schematic drawings, site utilization plans, and phasing plans showing the scale and relationship of the components of the Project, the plot plan development at the site, and the proposed architectural concept of the buildings. Architect shall incorporate the educational programs and the functional requirements of DISTRICT into the Schematic Plans. At the Architect's option, the Schematic Plans may include study models, perspective sketches, electronic modeling or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. The Schematic Plans shall meet all laws, rules and regulations of the State of California, including but not limited to, the regulations of the State Department of Education (5 Cal. Code Regs. § 14000 et seq.) or Chancellor's office construction cost guidelines, as well as any guidelines implemented by the State Department of Education. All Schematic Plans shall be prepared in a form which may be submitted to the Division of State Architect and Chancellor's office. The Schematic Plans shall show all rooms incorporated in each building of the Project in single-line drawings, and shall include all revisions required by DISTRICT or by any federal, state, regional or local agency having jurisdiction over the Project. All architectural drawings for the Project shall be in a form suitable for reproduction.

3.4 Preliminary Project Budget. Architect shall use the DISTRICT's Preliminary Construction Budget and its own expertise and experience with the Project to establish a preliminary project budget or allowance in a format required by DISTRICT or, if applicable, by any school construction funding agency identified by DISTRICT ("Architect's Preliminary Project Budget"). The purpose of the Architect's Preliminary Project Budget is to show the probable Project cost in relation to DISTRICT's Preliminary Construction Budget and the construction standards of any applicable funding agency. If Architect perceives site considerations which render the Project expensive or cost prohibitive, Architect shall disclose such conditions in writing to DISTRICT immediately. As stated below in Section 7 of this Exhibit, if the lowest responsive and responsible bid for the Project exceeds the budget by more than the stated percentage amount, Architect may be required to make the necessary changes in the drawings and specifications, at its sole cost and expense, to bring the bids within the required budget. Architect shall provide a preliminary written time schedule for the performance of all construction work on the Project.

3.5 Copies of Schematic Plans and Other Documents. Architect, at its own expense, shall provide a complete set of the Schematic Plans described herein for DISTRICT's review and approval. Additionally, at DISTRICT's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by DISTRICT shall be provided at actual cost to DISTRICT.

4. DESIGN DEVELOPMENT PHASE.

During the design development phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

BC A Architects
Southwestern College Corner Lot

Initials: [Signature]

ARCHITECT: [Signature]

DISTRICT: [Signature]
4.1 Approval and Revisions. DISTRICT shall review, study, and check the Schematic Plans presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the DISTRICT's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all DISTRICT requested changes, additions, deletions, and corrections in the Schematic Plans at no additional cost, so long as they are not inconsistent with earlier DISTRICT direction.

4.2 Design Development Documents. Once DISTRICT provides Architect with specific written approval of the Schematic Plans described herein, Architect shall prepare design development documents consisting of: (1) site and floor plans; (2) elevations; (3) sections; (4) typical construction details; (5) equipment layouts; and (6) any other drawings and documents sufficient to fix and describe the types and makeup of materials, as well as the scope, relationships, forms, size, appearance and character of the Project's structural, mechanical and electrical systems, and to outline the Project specifications ("Design Development Documents"). The Design Development Documents shall be prepared in sufficient form to present to the DISTRICT's Governing Board for approval.

4.3 Copies of Design Development and Other Documents. Architect, at its own expense, shall provide three (3) complete sets of the Design Development Documents described herein for DISTRICT's review and approval. Additionally, at DISTRICT's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by DISTRICT shall be provided at actual cost to DISTRICT.

4.4 Updated Project Budget. Architect shall use its Preliminary Project Budget and expertise and experience with the Project to establish an updated estimate of probable construction costs, containing detail consistent with the Design Development Documents as set forth herein and containing a breakdown based on types of materials and specifications identified herein ("Architect's Updated Project Budget").

4.5 Timetable. Architect shall provide a written timetable for full and adequate completion of the Project to DISTRICT.

4.6 Application for Approvals. Architect shall assist DISTRICT in applying for and obtaining required approvals from all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Architect shall furnish and process all architectural and engineering information required to prepare and process applications to applicable utilities in order to secure priorities and materials, to aid in the construction of the Project and to obtain final Project approval and acceptance by any of the above agencies as may be required.
4.7 **Color and Other Aesthetic Issues.** Architect shall provide, for DISTRICT's review and approval, a preliminary schedule of all color materials and selections of textures, finishes and other matters involving an aesthetic decision about the Project.

4.8 **Contract Delivery Method.** Architect shall advise DISTRICT on contract delivery methods for the Project and provide Project drawings, specifications and bid documents, discussed in sections 5 and 6 to support DISTRICT's approved delivery method. If the DISTRICT elects to utilize CM@Risk or any other multiple prime bid package method, the Architect is not responsible for separation and/or preparation or review of the bid packages or administration of the bid packages and related contract documents including change orders.

5. **FINAL WORKING DRAWINGS AND SPECIFICATIONS.**

During the final working drawings and specifications phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

5.1 **Approval and Revisions.** DISTRICT shall review, study, and check the Design Development Documents presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the DISTRICT's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all DISTRICT requested changes, additions, deletions, and corrections in the Design Development Documents at no additional cost, so long as they are not inconsistent with earlier DISTRICT direction.

5.2 **Final Working Drawings and Specifications.** Once DISTRICT provides Architect with specific written approval of the Design Development Documents described herein, Architect shall prepare such complete working drawings and specifications as are necessary for developing complete bids and for properly executing the Project work ("Final Working Drawings and Specifications"). Such Final Working Drawings and Specifications shall be developed from the Schematic Plans and Design Development Documents approved by DISTRICT. The Final Working Drawings and Specifications shall set forth in detail all of the following: (1) the Project construction work to be done; (2) the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical systems; and (3) the utility service connection equipment and site work. As indicated in Section 3.10.2, DISTRICT may be requested to supply Architect with the necessary information to determine the proper location of all improvements on and off site, including existing record drawings ("existing record drawings") in DISTRICT's possession. Architect will make a good-faith effort to verify the accuracy of such information by means of a thorough interior and exterior visual survey of site conditions. DISTRICT shall also make a good-faith effort to verify the accuracy of the existing record drawings and provide any supplemental information to Architect which may not be shown on the existing record drawings. Architect shall not be responsible for the accuracy of the existing record drawings, except to the extent that any inaccuracy should have been detected by the Architect, pursuant to its standard of care, from readily available documents and visual observations of existing conditions.
5.3 **Form.** The Final Working Drawings and Specifications must be in such form as will enable Architect and DISTRICT to secure the required permits and approvals from all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. In addition, the Final Working Drawings and Specifications must be in such form as will enable DISTRICT to obtain, by competitive bidding, a responsible and responsive bid within the applicable budgetary limitations and cost standards. The Final Working Drawings and Specifications shall be clear and legible so that uniform copies may be on standard architectural size paper, properly indexed and numbered, and shall be capable of being clearly copied and assembled in a professional manner by Architect.

5.4 **Approval and Revisions.** DISTRICT shall review, study, and check the Final Working Drawings and Specifications presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by DISTRICT’s Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the State Chancellor’s office or any other appropriate federal, state, regional or local regulatory bodies. Architect shall submit Project Documents to government authorities for approval and DISTRICT will pay any fees as reimbursable expenses.

Architect shall make all DISTRICT-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications at no additional cost, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier DISTRICT direction or Architect’s professional judgment. Architect shall bring any such conflicts and/or inconsistencies to the attention of DISTRICT. The parties agree that Architect, and not the DISTRICT, possesses the requisite expertise to determine the constructibility of the Final Working Drawings and Specifications. However, the DISTRICT reserves the right to conduct one or more constructibility review processes with the Final Working Drawings and Specifications, and to hire an independent architect or other consultant to perform such reviews. Any such independent constructibility review shall be at DISTRICT’s expense. Architect shall make all DISTRICT-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications which may result from any constructibility review, at no additional cost to the DISTRICT, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier DISTRICT direction or Architect’s professional judgment. If such changes, additions, deletions or corrections are inconsistent with prior DISTRICT direction, Architect shall make such alterations and be compensated therefore pursuant to the Additional Services provision of this Agreement.

5.5 **Costs of Construction.** It is understood by Architect that should the Final Working Drawings and Specifications be ordered by DISTRICT, DISTRICT shall specify the sum of money set aside to cover the total cost of construction of the work, exclusive of Architect’s fees. Should it become evident that the total construction cost will exceed the specified sum, Architect shall at once present a statement in writing to the DISTRICT’s
Representative setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based.

5.6 Copies of Final Working Drawings and Specifications and Other Documents. Architect, at its own expense, shall provide three (3) complete sets of the Final Working Drawings and Specifications described herein for DISTRICT's review and approval. Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by DISTRICT shall be provided at actual cost to DISTRICT.

6. CONSTRUCTION CONTRACT DOCUMENTS.

During the construction contract documents phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

6.1 Bid and Contract Documents. Architect shall assist DISTRICT in the completion of all bid and construction documents, including but not limited to, the Notice Inviting Bids, Instructions to Bidders, Contract Bid Forms (including Alternate Bids as requested by DISTRICT), Contract, General Conditions, Supplementary General Conditions, Special Conditions, other necessary conditions of the contract, Project Manual (e.g. conditions of the contract, specifications, and bidding requirements and sample forms), DVBE and other applicable affirmative action documents, Performance Bond, Payment Bond, Escrow Agreement for Security Deposits, and any other certifications and documents required by federal, state and local laws, rules and regulations which may be reasonably required in order to obtain bids responsive to the specifications and drawings. All such documents shall be subject to the approval of DISTRICT and DISTRICT’s legal counsel.

6.2 Final Estimate. At the time of delivery of these bid and construction documents, which shall include the Final Working Drawings and Specifications (collectively referred to herein as the “Construction Documents”), Architect shall provide DISTRICT with its final estimate of probable construction cost (“Architect's Final Estimate”). As stated above, it shall be the Architect’s duty to design the Project within budget.

7. BID PHASE.

During the bid phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

7.1 Reproducible Construction Documents. Once DISTRICT provides Architect with specific written approval of the Construction Documents and Architect’s Final Estimate, Architect shall provide to DISTRICT three (3) sets of reproducible Construction Documents.
7.2 Distribution of Contract Documents and Review of Bids. Architect shall assist
DISTRICT in distributing the Construction Documents to bidders including to plan rooms and
electronically, and conducting the opening and review of bids for the Project. DISTRICT will
reimburse the Architect for the cost of reproducing bid sets, addenda and related delivery
charges.

7.3 Overbudget. If the apparent lowest responsive and responsible bid on the Project
exceeds the Architect's Final Estimate by more than ten percent (10%), DISTRICT may request
Architect to amend, at Architect's sole cost and expense, the Final Drawings and Specifications
in order to rebid the Project and receive a lowest responsive and responsible bid equal to or less
than the Architect's Final Estimate. All revisions necessary to bring the lowest responsible and
responsive bid within the Architect's Final Estimate, including any omissions, deferrals or
alternates, shall be made in consultation with, and subject to the approval of, the DISTRICT.

8. CONSTRUCTION PHASE.
During the construction phase of the Project, Architect shall do all of the following, as well as
any incidental services thereto:

8.1 Observation. The Project Architect shall observe work executed from the Final
Working Drawings and Specifications in person, provided that DISTRICT may, in its discretion,
consent to such observation by another competent representative of Architect.

8.2 General Administration. Architect shall provide general administration of the
Construction Documents and the work performed by the contractors.

8.3 Pre-Construction Meeting. Architect shall conduct one or more pre-
construction meetings, as the DISTRICT determines is needed for the Project, with all interested
parties.

8.4 Site Visits of Contractor's Work. Architect shall conduct site visits to observe
each contractors' work for general conformance with the Construction Documents and with any
approved construction schedules or milestones. Such site visits shall be conducted as often as
are necessary and appropriate to the stage of construction, according to the DISTRICT's sole
discretion, but in no event less than weekly.

8.5 Site Visits of Inspector's Work. Architect shall conduct site visits to
communicate and observe the activities of the Project inspectors, including the Inspector of
Record. Such site visits shall be conducted as often as is mutually acceptable to Architect and
DISTRICT. Architect shall direct the Project inspectors and the Project contractors, and shall
coordinate the preparation of record drawings indicating dimensions and location of all "as-built"
conditions, including but not limited to, underground utility lines.

8.6 Coordination of Architect's Consultants. Architect shall cause all architects,
engineers and other consultants, as may be hired by Architect or DISTRICT, to observe the work

Initial: [Signature]
Dist.

BCA Architects
Southwestern College Corner Lot

-32-
completed under their disciplines as required, and approve and review all test results for general conformance with the Construction Documents.

8.7 **Reports.** Architect shall make regular reports as may be required by applicable federal, state or local laws, rules or regulations, as well as the federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services, the County in which the Project is located, the City in which the Project is located or any other appropriate federal, state, regional or local regulatory bodies.

8.8 **Construction Meetings; Minutes.** Architect shall attend all construction meetings. Such meetings shall occur at a frequency necessary for the progress of the Project work, according to the DISTRICT’s sole discretion, but no less than weekly unless previously agreed to in advance. CM will prepare meeting minutes; Architect to review and comment.

8.9 **Written Reports.** Architect shall make written reports to DISTRICT, at least monthly, to inform DISTRICT of problems arising during construction, changes contemplated as a result of each such problem, and the progress of the Project work. The Architect shall not have control over the acts or omissions of the contractors, subcontractors or their agents or employees, or of any other persons or entities performing or supplying portions of the work which were not employed or hired by Architect. The contractor shall not be relieved of its obligation to perform the work in accordance with the Contract Documents either by activities or duties of the Architect, or by tests, inspections or approvals required or performed by persons other than the contractor.

8.10 **Written Records.** Architect shall keep accurate written records of the progress and quality of the Project work and the time schedules, and shall advise the contractors and DISTRICT of any deviations from the time schedule which could delay timely completion of the Project.

8.11 **Material and Test Reports.** Architect shall check and process, in a timely manner, all required material and test reports for the Project work. In addition, Architect shall provide notice of any deficiencies in material or work reflected in such reports, as well as its recommendation for correction of such deficiencies, to the contractors, DISTRICT and federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies.

8.12 **Review and Response to Submissions.** Architect shall review and respond, in a timely manner, to all schedules, submittals, shop drawings, samples, information requests, change requests, and other submissions of the contractor and subcontractors for compliance with, or alterations and additions to, the Construction Documents. Architect’s review and response shall be completed within seven (7) work days or less after receipt for information requests and fifteen (15) work days for schedule, submittal, shop drawing, and samples review after receipt to ensure the timely and uninterrupted progress of the Project work. Submission requests which
involve more work or time than is normally required for routine submissions, as mutually
determined by the Parties, may be the subject of additional compensation as Additional Services.

8.13 Rejection of Work. Architect shall promptly reject, as discussed with
DISTRICT, work or materials which do not conform to the Construction Documents. Architect
shall immediately notify the DISTRICT and contractor(s) of such rejections. Architect shall also
have the authority to recommend to the DISTRICT that additional inspection or testing of the
work be performed, whether or not such work is fabricated, installed or completed.

8.14 Substitutions. Architect shall consult with DISTRICT, in a timely manner
(within fifteen (15) work days or less), with regard to substitution of materials, equipment and
laboratory reports thereof, prior to the DISTRICT's final written approval of such substitutions.
Architect's consultation shall be done in such a manner so as to ensure the timely and
uninterrupted progress of the Project work. Substitution requests which involve more work or
time than is normally required for routine substitutions, as mutually determined by the Parties,
may be the subject of additional compensation as Additional Services.

8.15 Revised Documents and Drawings. Architect shall prepare, at no additional
expense to DISTRICT, all documents and/or drawings made necessary by errors and omissions
in the originally approved Construction Documents.

8.16 Change Requests and Material Changes. Architect shall evaluate and advise
DISTRICT, in a timely manner and in writing, of any change requests and material change(s)
which may be requested or necessary in the Project plans and specifications. Architect shall
provide the DISTRICT with its opinion as to whether such change requests should be approved,
denied or revised. If the DISTRICT has not hired a construction manager or other person to do
so, the Architect shall prepare and execute all change orders and submit them to the DISTRICT
for authorization. If the DISTRICT has designated a construction manager or other person to
prepare all change orders, the Architect shall review all change orders prepared by such person,
execute them and deliver them to the DISTRICT for authorization if they meet with the
Architect's approval, or submit them to the DISTRICT with recommendations for revision or
denial if necessary. Architect shall not order contractors to make any changes affecting the
contract price without approval by DISTRICT of such a written change order, pursuant to the
terms of the Construction Documents. Architect may order, on its own responsibility and
pending the DISTRICT's Governing Board approval, changes necessary to meet construction
emergencies, if written approval of DISTRICT's Representative is first secured. Architect may
also authorize minor changes in the work, pending DISTRICT's approval, so long as such
changes are not inconsistent with the intent of the Construction Documents and do not involve an
adjustment in the contract sum or an extension of the contract time.

8.17 Applications for Payment. Architect shall examine, verify and approve
contractor's applications for payment, and shall issue certificates for payment in amounts
approved by the Project Inspector of Record or the DISTRICT's Representative, based on the
Architect's observations at the site. The issuance of a certificate for payment shall not be a
representation that the Architect has: (1) made exhaustive or continuous on site inspections of the

Initial Edt Page:

BCA Architects
Southwestern College Corner Lot

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work for which payment is sought; (2) reviewed construction means, methods, techniques, sequences or procedures for the work for which payment is sought; (3) ascertained how and for what purpose the contractor has used money previously paid; or (4) certified that the work for which payment is sought is without defects.

8.18 **Final Color and Product Selection.** Architect shall coordinate final color and product selection with DISTRICT's original design concept.

8.19 **Substantial Completion.** Architect shall determine the date of substantial completion, in consultation with the DISTRICT.

8.20 **Punch List.** After determining that the Project is substantially complete, Architect shall participate in the inspection by the IOR of the Project and shall review all remaining deficiencies and minor items needed to be corrected or completed on the Project, including those identified on the punch list prepared by the contractor ("Punch List Items"). Architect shall notify contractor in writing that all Punch List Items must be corrected prior to final acceptance of the Project and final payment. Architect shall also notify DISTRICT of all Punch List Items.

8.21 **Warranties.** Architect shall review materials assembled by the contractor and subcontractors with regard to all written warranties, guarantees, owners' manuals, instruction books, diagrams, record "as built" drawings, and any other materials required from the contractors and subcontractors pursuant to the Construction Documents. Architect shall coordinate and provide these materials to the DISTRICT.

8.22 **Certificate of Completion.** Architect shall participate in any further inspections of the Project necessary to issue Architect's Certificate of Completion and final certificate for payment.

8.23 **Documents for Project Close-Out.** Architect shall cause all other architects, engineers and other consultants, as may be hired by Architect, to file any and all required documentation with the DISTRICT or other governmental authorities necessary to close out the Project. Architect will be responsible in obtaining such documentation from all other architects, engineers, or other consultants.

9. **RECORD DRAWINGS.**

During the record drawings phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

9.1 **Record Drawings and Specifications.** Not later than thirty (30) days after substantial completion of the Project, before receipt of final payment, Architect shall review and forward the Final Working Drawings and Specifications, indicating on them all changes made by change orders or otherwise pursuant to the Construction Documents, as well as all information called for on the specifications, thus producing an "record" set of Final Working Drawings and Specifications.
Specifications ("Record Drawings and Specifications"). The Record Drawings and Specifications shall show, among other things, the location of all concealed pipe, buried conduit runs and other similar elements within the completed Project. Architect shall personally review and certify that the Record Drawings and Specifications are a correct representation of the information supplied to Architect by the Inspector of Record and the contractor, and shall obtain certifications from the Inspector of Record and the contractor that the drawings are correct.

9.2 **Approval.** Once DISTRICT provides Architect with specific written approval of the Record Drawings and Specifications, Architect shall forward to DISTRICT the complete set of original Record Drawings and Specifications or a complete set of reproducible duplicate Record Drawings and Specifications. The tracing shall be of such quality that clear and legible prints may be made without appreciable and objectionable loss of detail.

9.3 **Documents for Final Payment.** Prior to the receipt of Architect's final payment, Architect shall forward to DISTRICT all of the following: (1) one clear and legible set of reproductions of the computations; (2) the original copy of the specifications; (3) the Record Drawings and Specifications as required herein; (4) the final verified progress report required pursuant to Title 24 of the California Code of Regulations; and (5) Architect's Certificate of Completion.

10. **WARRANTY PERIOD.**

During the warranty period phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

10.1 **Advice.** Architect shall provide advice to DISTRICT on apparent deficiencies in the Project during any applicable warranty periods for the Project.
EXHIBIT "B"

FEE AND PHASING SCHEDULES/TASK ORDER(S)

1. Fee and Phasing Schedule.

The Architect shall be compensated based upon the following Fee Schedule:

A. Compensation

Payments on account of the agreed compensation shall be made within thirty (30) days of the DISTRICT's acceptance of design phase service in accordance with the percentages set forth below. Billings will be on a percentage of completion basis based upon work completed.

1. Schematic Design – 15% of total task order sum.
2. Design Development - 25% of total task order sum
3. Construction Documents – 25% of total task order sum
4. Construction Documents Approved by DSA – 5% of total task order sum
5. Bid Phase – 5% of total task order sum
6. Construction Phase – 20% of total task order sum
7. Project Close Out and DSA Project Certification – 5% of total task order sum

2. Task Order(s).

SCOPE OF SERVICES

General: Pursuant to Education Code Section 17316, all materials, plans, specifications and estimates prepared pursuant to this Agreement shall be and remain the property of the DISTRICT. Such drawings and specifications supplied as herein required shall be the property of the DISTRICT whether or not the work for which they were made is executed. The Architect shall furnish to the DISTRICT one computer file (in .PPT or .PDF format, or other format as requested by the DISTRICT), one presentation copy and seven handout copies of all work products required. Any other copies of the drawings and specifications shall be supplied to the DISTRICT by the Architect at the cost of reproduction.
All not to exceed fees include the above named Direct Expenses.

1. Task Order No. 1 – Southwestern Community College Corner Lot Project – Schematic Design through DSA Closeout and Project Certification per BCA Architects Proposal dated May 19, 2010 as modified herein. Design limited to support of campus plan depicted in BCA Architects Board Presentation dated April 20, 2010 (Exhibit E)

_Deliverables (in Exhibit “A”)_.

a. One (1) set of Schematic Design Documents for District Review and approval.

b. Three (3) copies of the Design Development documents for DISTRICT review and approval.

c. Three (3) copies of the Construction Documents for DISTRICT review and approval.

d. Project document approval from appropriate State and Local authorities.

e. Contract document ready to bid.

f. Assistance with bidding.

Task Order No. 1 fee: $3,162,500 based on 5.75% of estimated construction costs of $55,000,000.00 plus $160,000 for Direct Expenses Task order to be complete by dates shown in Exhibit F.
EXHIBIT "C"

COMPENSATION RATES

<table>
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<tr>
<th>STAFF</th>
<th>FEE</th>
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<tbody>
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<td>Principal Owner Architect</td>
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<tr>
<td>Project Admin III</td>
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<tr>
<td>Project Admin I and II</td>
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Project Assistant $70.00
Intern $60.00
Project Consultants Actual Fee + 10%

Fees are subject to increase by 5% every January 1 of the New Year

The expenses below are covered within the Direct Project Expense
(except for additional services)

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<thead>
<tr>
<th>EXPENSE</th>
<th>COST</th>
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</thead>
<tbody>
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<td>Color Prints</td>
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<tr>
<td>11</td>
<td>$2.75 /print</td>
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<td>All other sizes</td>
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<tr>
<td>Delivery (Other than mail)</td>
<td>cost</td>
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<td>Facsimile</td>
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<tr>
<td>Large Scale Photocopy</td>
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<tr>
<td>Lodging</td>
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<tr>
<td>Telephone</td>
<td></td>
</tr>
<tr>
<td>Travel</td>
<td></td>
</tr>
</tbody>
</table>

ABOVE EXPENSES ARE SUBJECT TO 16% SURCHARGE

Direct project expense other than cost expenses are subject to increase by 5% every January 1 of the New Year
EXHIBIT D

Architect's Consultant Exemption

The Southwestern Community College District ("DISTRICT") entered into an agreement for architectural services with DESIGNER ("Architect") on or about June 5, 2010 ("Agreement"). Pursuant to Education Code section 45122.1, the DISTRICT has determined that ____________, a consultant to the Architect for purposes of that Agreement ("Consultant"), is exempt from the criminal background check certification requirements for the Agreement because:

☐ The Consultant's employees will have limited contact with DISTRICT students during the course of the Agreement; or

☐ Emergency or exceptional circumstances exist.

Raj K. Chopra, Ph.D.  
Superintendent/President

6-28-10  
Date
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

FROM: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C. A. Alioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Sevilla Construction Services, Inc.

SUBJECT: Proposition R Architectural Services for Corner Lot Project and Central Plant Project

RECOMMENDATION

Recommend award of RFP 109 for architectural services and authorize the Superintendent/President to enter into contracts for the following:

1. BCA Architects to provide architectural services for the Corner Lot Parcel Project at a fee equal to a maximum of 5.75% of the cost of construction estimated at Fifty-Five Million Dollars plus normal and customary reimbursables and services.

2. Gensler Architects to provide architectural services for the Central Plant Project at a fee equal to a maximum of 6.00% of the cost of construction estimated at Twenty-Six Million Dollars plus normal and customary reimbursables and services.

OVERVIEW

The Corner Parcel Project will consist of approximately 110,000 assignable square feet of administrative and conference spaces, a college bookstore, food court, art gallery, culinary arts program, wellness center, a college police station, and additional classroom space.

The Central Plant Project will consist of designing and building a new central plant which will provide all heating, ventilation and energy management control from a central location on campus.

The District issued an RFP to solicit professional architectural services from qualified firms. A total of 41 firms responded to the initial RFP, 19 firms were selected for first round interviews, and seven were selected to provide architectural services for Phase I of Proposition R projects.

These seven firms were then asked to participate in a design competition for the Corner Lot project. Proposition R Steering Committee acted as the design competition selection committee and consists
of the Superintendent/President, Vice Presidents, Academic Senate, Classified Senate, a student representative, members of the community and the program management staff. The firms were asked to provide a conceptual design for the project. The selection process adhered to the Land Development Committee Report approved by the Governing Board in October 2007. As part of the report, it was emphasized that the design must complement and incorporate the Mayan architectural theme.

The firms must have had recent community college design experience and demonstrate the ability to design within the established budget. The committee then shortlisted three of the seven firms for final negotiations.

BCA Architects had a design that conformed more closely to the requirements set forth in the Land Development Report. BCA Architects was ranked unanimously by all nine selection members present as being in the top three firms. In addition, the final selection was based on factors such as their fee structure, technical ability and the capability to meet the District’s construction schedule. BCA Architects is being recommended to provide architectural services for the Corner Lot Project.

Gensler Architects ranked #2 in the recent design competition for the corner lot and they have had recent design experience with central plants. Gensler Architects is being recommended to provide architectural services for the Central Plant Project on the main campus.

HA/hs
Southwestern Community College District
Business, Operations & Facilities Planning
Recommendation of Award of RFP

Governing Board Meeting Date: April 20, 2010
Award of RFP No. 109

Title of Bid: Architectural Firms for Corner Lot Project and Central Plant Project

<table>
<thead>
<tr>
<th>Bidder Name</th>
<th>Bid Fee (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>BCA Architects</td>
<td>5.75%</td>
</tr>
<tr>
<td>Gensler Architecture</td>
<td>6.00%</td>
</tr>
<tr>
<td>LPA, Inc.</td>
<td>6.25%</td>
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<tr>
<td>MVE-Institutional</td>
<td>5.75%</td>
</tr>
<tr>
<td>tBP Architecture</td>
<td>6.00%</td>
</tr>
<tr>
<td>NTD Architects</td>
<td>6.25%</td>
</tr>
<tr>
<td>Mda Johnson Favaro, LLP</td>
<td>5.75%</td>
</tr>
</tbody>
</table>

- Highlighted cell indicates recommended low bidders.

Rejected Bids:

| None |

Nineteen architectural firms were selected for interview for RFP No. 109; seven firms were selected to provide architectural services. Based on their interview, community college experience and project experience, the highlighted firms were selected to be recommended for award of the Corner Lot Project and the Central Plant Project. The two firms and their projects are:

- BCA Architects – Corner Lot Project
- Gensler Architecture – Central Plant Project
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities/Operations, and Planning

SUBJECT: Ratification of Agreement with Echo Pacific Construction, Inc.
Corner Lot Project Agreement

RECOMMENDATION

Recommend Ratification of Agreement No. A3134.10, related to RFP 116, with Echo Pacific Construction, Inc., for construction management at risk services, for the period July 15, 2010 to December 21, 2012, inclusive, in an amount not to exceed $4,060,000.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 116 on July 14, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Echo Pacific Construction, Inc. provides professional construction management at risk services including pre-construction services, trade contractor bidding and contracting, building construction, building commissioning, and project closeout for the Corner Lot project. Echo Pacific Construction, Inc. has relevant project experience in similar size, scope, and complexity. This project will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $4,060,000 Cost to the District/Account No.:
5-45123-718701-970 (Corner Lot - Proposition R Funds)

RJD:mk

April 13, 2011
CONSTRUCTION MANAGEMENT SERVICES
"AT RISK" AGREEMENT

This Construction Management Services "At Risk" Agreement ("Agreement") is entered into as of the 15th day of July, 2010 by and between SOUTHWESTERN COMMUNITY COLLEGE DISTRICT ("District") and ECHO PACIFIC CONSTRUCTION, INC. ("CMR"). The District and is referred to in this Agreement as "the Owner." The Owner and the CMR are collectively referred to in this Agreement as "the Parties." This Agreement is entered into with reference to the following recitals, all of which are incorporated herein by this reference.

RECITALS

WHEREAS, the Owner is the owner of the real property at 900 Otay Lakes Road, Chula Vista, CA 91910 and 880 National City Boulevard, National City, CA 91950.

WHEREAS, the District has determined that the best interests of the District are served by development and construction of a facility on the Property for educational/administrative purposes commonly referred to as the Corner Lot Project ("the District Project").

WHEREAS, the District has retained Bunton Clifford and Associates (BCA) (hereinafter or "the Architect") to provide and perform certain services in connection with design, bidding and construction of the District Project.

WHEREAS, the Architect is in the process of completing schematic drawings for the Corner Lot Project in a series of sequential phases described as the design development plans and the Construction Drawings.

WHEREAS, as of the date of this Agreement, the Architect has completed the Schematic plans of the Design Documents for the District Project and has not submitted the same to the Division of the State Architect ("DSA") for approval.

WHEREAS, jurisdiction over the Design Documents for the District Project is vested in the Division of the State Architect.

WHEREAS, the District has elected to bid construction of the project to multiple contractors ("Trade Contractors") and to construct the District Project by entering into contracts ("Trade Contracts") with the successful bidders for each Trade Contract, which will then be assigned to the CMR as described in this Agreement.

WHEREAS, the District intends to bid the District Project with the Trade Contractors hereinafter referred to as "the Project."

WHEREAS, in connection with reviews of the Design Documents prepared by the Architect for the Project, bidding of Trade Contracts for construction of the Project, the
District desires to retain and contract with the CMR to provide construction management services "at risk" for the District Project, as further described in this Agreement.

WHEREAS, in or about May 2010, the District issued a Request for Proposals No. 116 ("the RFP") for the professional construction management services pursuant to Governing Code Section 4525 et seq., through which the District sought proposals from construction management firms to provide the construction management "at risk" services in connection with review of Project Design Documents and the bidding/construction of the District Project, by this reference, the RFP is incorporated herein as if set forth in full.

WHEREAS, the CMR submitted a written proposal dated May 20th, 2010 responding to the RFP ("the RFP Response"); by this reference the RFP Response is incorporated herein as if set forth in full.

WHEREAS, the District desires to retain the CMR to provide certain services in connection with the District Project in order to achieve the objectives relating to the District Project, including without limitation, review of the Project Design Documents by the CMR, management of the bidding process for the Trade Contracts by the CMR, management of a Project construction by the CMR, expedited completion of Project construction, economies of scale by a single set of Trade Contractors constructing the District Project and the risks for the time/costs to complete Project construction as set forth in this Agreement.

WHEREAS, the CMR is a professional construction manager, duly qualified and capable of providing the Basic Services described herein accordance with the term hereof, and shall not act as a general contractor nor be entitled to self-perform any construction work on the District Project.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties, the Parties agree as follows:

AGREEMENT

ARTICLE I

BASIC SERVICES

1.1 General: Phases of Basic Services. The CMR shall provide and perform the Basic Services more particularly described in this Agreement. The Basic Services shall be performed and completed in a series of sequential Phases generally described as: Pre-Construction, Construction and Post-Construction. The scope of the CMR's Basic Services and obligations during each Phase of the Basic Services shall be as set forth herein. All of the Basic Services during the Construction Phase shall be performed or provided by or under the control of an individual employed by the CMR, which is a Licensed B — General Building Contractor and or A — General Engineering Contractor under California law. Basic Services under this Agreement include without limitation the General Conditions items to be provided by the CMR during the Construction Phase, as further described in this Agreement and Exhibit A hereto. The CMR
expressly acknowledges that this Agreement and the Basic Services only include the professional construction management services "at risk" described herein, and that the CMR shall not have the authority to self-perform any construction work on the District Project or otherwise act as a general contractor.

1.1.1 Leadership Energy Efficiency Design (LEED) and Building Information Modeling (BIM). The CM shall assist the Architect and Owner in achieving goals for both LEED and Building Information Modeling implementation as it applies to each scope of work.

1.2 Relationship of CMR to Other Project Participants. The CMR acknowledges that the District has entered into, or will be entering into, contracts with other parties pertaining to the design, bidding and/or construction of the Project, including without limitation, contracts with the Architect, the Inspector, and Test/Inspection service providers and others. The CMR acknowledges that accomplishing the Project objectives of the District will require that the CMR and other parties under Project related contracts with the District each completely and timely perform in accordance with their respective contractual obligations and in a collaborative manner consistent with the Project objectives of the District. The CMR acknowledges and agrees that its performance of the obligations under this Agreement in a complete and timely manner and in a collaborative manner with other Project participants is a material obligation of the CMR under this Agreement.

1.3 CMR Standard of Care. The CMR shall provide the Basic Services using its best professional skill and judgment, acting with due care and in accordance with professional standards of care, the terms hereof and applicable law, code, rule or regulation. CMR’s services hereunder shall be provided and completed promptly and in such a manner as to avoid hindrance, interruption or delay to the orderly progress and timely completion of the CMR’s review of Project Design Documents, Trade Contractor’s bidding and Project construction to permit occupancy of the District Project in accordance with Owner’s objectives.

1.4 CMR Project Manager: Field Superintendent. Within a mutually agreed upon date of this Agreement, the CMR shall prepare and submit to the Owner’s Representatives a written statement which identifies the qualifications of the individuals proposed by the CMR as the Project Manager and the Field Superintendent in connection with the CMR’s obligations under this Agreement. The Project Manager and Field Superintendent shall be to the reasonable satisfaction of the Owner; if the Owner requests alternatives to the individual(s) proposed by the CMR as the Project Manager or the Field Superintendent, the CMR shall provide such alternatives until the Owner has approved of the Project Manager and the Field Superintendent. Once approved by the Owner, the CMR shall not designate other individual(s) to serve in such capacities in connection with this Agreement without the prior consent and approval of the Owner. The Project Manager/Field Superintendent shall: (a) be authorized to act on behalf of the CMR with respect to this Agreement; and (b) be authorized to render binding decisions on behalf of the CMR.
1.5 **Ineligibility to Bid.** The CMR, and any other business with common ownership shall be ineligible to bid on any Trade Contract for the Project, but shall remain eligible to bid on any other Owner projects. The CMR maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for the CMR, to solicit or secure this Agreement. Further, the CMR warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for the CMR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement.

1.6 **Additional Services.** At any time during the term of this Agreement, the Owner may request the CMR to perform Additional Services. As used herein, "Additional Services" shall mean any service which is determined by the Owner to be necessary for proper completion of the Project, but which the parties did not reasonably anticipate would be necessary at the time of execution of this Agreement, and was not included in the Scope of Services. However, the CMR shall not perform, nor be compensated for, Additional Services without obtaining the Owner's prior written authorization.

1.7 **Bonding for CMR Services.** Prior to commencing work on the Project, the CMR shall provide to Owner a performance bond in the amount of the total value of the CMR's services (Fees and General Conditions) as set forth in Section 6.1 below, and shall not include any items/amounts to be provided in the performance bonds provided by the Trade Contractors on the Project. The performance bond provided by the CMR shall be in a format and with a surety acceptable to Owner.

**ARTICLE 2**

**OWNER RESPONSIBILITIES**

2.1 **Owner Information.** The Owner shall each provide full information to the CMR regarding the District Project, as applicable, including objectives, schedule requirements, budget limitations and other constraints and requirements which may affect the Project Budget, time for completion of Project construction or Project scope. The Owner shall provide the CMR with the Project and Construction Budget for the District Project for review by the CMR.

2.2 **Owner's Representatives.** The district shall designate a representative to act on its behalf with respect to the Project and who shall be authorized to render decisions on behalf of the Owner, as applicable, and to carry out the responsibilities of the Owner under this Agreement, all of which shall be discharged or performed in a manner so as to avoid unreasonable delay in the orderly and sequential progress of the CMR's performance of services and other obligations hereunder. Unless modified by subsequent written notice, the District Representative is Henry Amigable, CCM, Bond Program Director (the District Representative hereinafter referred to as "the Owner's Representatives.")
2.3 **Tests/Inspections.** In accordance with applicable law, rule or regulation, the Owner shall:

   (a) retain a Project Inspector ("Inspector") to provide construction observations as required by applicable laws, rules or regulations; and

   (b) retain Test/Inspection Service Providers to conduct Construction Phase tests/inspections of materials/equipment forming a part of the Project, as required by applicable law, rule or regulation. The foregoing notwithstanding, as set forth below, the Basic Services of the CMR include assistance to the Owner in identifying, selecting and retaining the Inspector and Test/Inspection Service Providers.

2.4 **Owner Consultants.** Except to the extent of Design Consultants retained by the Architect, other consultants required or desired by the Owner in connection with the Project shall be retained and paid for by the Owner. Such other consultants include, without limitation, legal counsel, insurance/surety consultants or insurance consultants.

2.5 **Validation.** The Owner and CMR may mutually agree to pursue the board actions and other approvals necessary for the filing of a validation action pursuant to the provisions of the California Code of Civil Procedure. Owner and CMR agree that if a validation action is to be filed, the parties will mutually agree on the timing and allocation of costs for such a validation action.

**ARTICLE 3**

**PRE-CONSTRUCTION PHASE**

3.1 **Pre-Construction Phase Schedule, Project Bidding and Construction Strategy.** The initial Pre-Construction Phase activities shall be as follows:

3.1.1 **Schedule of Services.** Within a mutually agreed upon time period following execution of this Agreement, the CMR shall prepare and provide for the Owner's approval a master schedule of all Pre-Construction Phase Services described herein. This schedule shall be reviewed and approved the Owner's Representative in writing. All Pre-Construction Services described herein shall be completed in accordance with the approved schedule.

3.1.2 **Bidding and Construction Strategy.** The CMR shall, in conjunction with the Owner's Representative and other staff of the District, review the current status of completion and approvals for bidding the Project Design Documents to Trade Contractors. The objective of these reviews is the development of an overall strategy for bidding and constructing the District Project taking into account factors affecting time for completing construction of the District Project or the costs of constructing the Project. The CMR shall conduct such interviews and participate in such meetings and conferences with the...
Architect, Owner's Representatives, the Owner's staff and others as necessary to develop a bidding and construction strategy consistent with the Owner's Project objectives. The CMR shall submit its written recommended bidding/construction strategy to the Owner for their acceptance within a mutually agreed upon date of this Agreement ("the Preliminary Bidding/Construction Strategy"). Within mutually agreed upon days of the Owner's Representatives' receipt of the CMR's Preliminary Bidding/Construction Strategy, the Owner will submit comments, modifications and other direction to the CMR relating to the CMR's Preliminary Bidding/Construction Strategy. The CMR shall modify the Preliminary Bidding/Construction Strategy as necessary to obtain acceptance of the Owner. Modifications, if any, to the CMR's proposed bidding/construction strategy shall be completed within mutually agreed upon calendar days of the CMR's receipt of written communication from the Owner regarding modifications necessary to obtain the Owner's acceptance of the CMR's bidding/construction strategy; the modification process shall continue until the Owner has accepted the entirety of the CMR's proposed bidding construction strategy ("the Final Bidding/Construction Strategy"). The CMR shall implement the Final Bidding/Construction Strategy.

3.2 Review of Design Documents. The CMR, including the CMR's Project Manager and Field Superintendent, shall review the Design Documents completed by the Architect to ensure complete understanding of the Project design and scope intent.

3.2.1 Constructability Review. The CMR, from a construction manager's perspective as a licensed general contractor and in accordance with industry standards, shall review the Design Documents to ascertain whether the Project, as depicted in the Design Documents: (a) accurately and completely reflect the Owner's Project objectives; and (b) the Project Design Documents are free of errors, omissions, conflicts, or other deficiencies so that Trade Contractors can construct the Project as depicted in the Design Documents without delays, disruptions or additional costs resulting from errors, omissions, conflicts or other deficiencies in the Design Documents. The scope of the CMR's constructability reviews shall include, without limitation: (a) confirmation that requirements noted in the Design Documents are consistent with and conform to the Owner's Project requirements; (b) confirmation that the various components of Design Documents prepared by the Architect and its Design Consultants have been coordinated and are consistent with each other so as to eliminate conflicts within or between components of the Design Documents; (c) confirmation from a CMR's perspective and professional standard of care, that there are no errors, omissions or other deficiencies in the Design Documents excluding latent structural design defects, the liability of which shall remain with the Architect.

The CMR shall submit written Constructability Review comments to the Owner's Representatives within mutually agreed upon calendar days of the
date of this Agreement. The Owner shall have the sole and exclusive
discretion to accept some, all or none of the CMR’s Constructability Review
Comments. If the Owner accepts any of the CMR’s Constructability Review
Comments, the CMR shall review the Design Documents modified by the
Architect for confirmation that the Owner accepted Constructability Review
Comments are incorporated into the Design Documents issued on behalf of the
Owner for bidding by Trade Contractors. If the CMR determines that the
Architect has not incorporated into the Design Documents the Constructability
Review Comments accepted by the Owner, the CMR shall advise the Owner
of measures to ensure that the Design Documents issued for bidding by Trade
Contractors incorporate the Owner accepted Constructability Review
Comments. The CMR shall implement such measures as directed or
authorized by the District.

3.2.2 Owner Review of Constructability Comments: Incorporation of
Constructability Review Comments. Upon receipt of the CMR’s
Recommendations and the CMR’s Constructability Review Comments, the
Owner shall promptly complete review of the same. Within mutually agreed
upon calendar days of the date of the CMR’s Constructability Review
Comments, the CMR and the Owner’s Representatives shall meet and confer to
arrive at mutually agreed Constructability Review Comments to be
incorporated by the Architect into the Project Design Documents.

3.2.3 Labor/Materials Marketplace Survey. The CMR shall survey the existing
labor and materials marketplace conditions in the locality of the Project to
ascertain the availability of suitable labor and materials necessary to complete
Project construction. Within mutually agreed upon calendar days of the date of
this Agreement, the CMR shall complete the labor/materials marketplace
survey and provide the Owner’s Representatives with a written evaluation of
the extent of available and suitable labor/materials and whether the CMR
anticipates that the extent of available and suitable labor/materials will impact
the costs/time for completion of Project construction. If the CMR concludes
that the extent of available and suitable labor/materials may have an adverse
impact on costs/time for completion of Project construction, the CMR’s written
evaluation shall include recommendations for measures to mitigate such
potential adverse impacts to costs/time.

3.3 Development of Bid Packages. Based upon its review of the Design Documents
(including any Owner accepted Value Engineering Recommendations and
Constructability Review Comments), the CMR shall develop written Bid Package
descriptions suitable for bidding by Trade Contractors. Within mutually agreed upon
calendar days of the date of this Agreement, the Bid Packages developed by the CMR
shall be submitted to the Owner’s Representatives for review and acceptance by the
Owner. Within mutually agreed upon calendar days of the CMR’s submission of its
proposed Bid Packages to the Owner’s Representatives, the Owner will complete
review of the Bid Packages and provide the CMR with comments, requested
modifications and similar matters relating to the proposed Bid Packages. Within
mutually agreed upon calendar days of the CMR's receipt of such comments, requested modifications and similar matters, the CMR shall revise and re-submit the revised Bid Packages to the Owner's Representatives for acceptance by the Owner. Notwithstanding the foregoing provisions or any other provisions of this Agreement, the review of Bid Packages by the Owner's Representatives and acceptance of Bid Packages by the Owner: (a) shall not relieve the CMR of its responsibility under this Agreement for developing Bid Packages which incorporate therein all work, labor, materials, equipment and services necessary to construct the Project depicted in the Design Documents issued on behalf of the District for bidding by Trade Contractors; or (b) deemed the assumption of responsibility by the Owner for the completeness, accuracy or sufficiency of any Bid Package or the totality of the Bid Packages developed by the CMR, expect the extent a change to a bid package is required by the Owner results in a damage or impact to the Project. The CMR shall modify the Bid Packages as necessary to obtain the Owner's acceptance of the entirety of each Bid Package and the entirety to all Bid Packages. The CMR shall be responsible for incorporating into each Bid Package and identifying all work, labor, materials and services required under each Bid Package so that the District Project, as constructed by the Trade Contractors, is as depicted in the Design Documents issued for bidding, subject to Owner approved Changes during the Construction Phase. Costs for work, labor, materials or services indicated in the Design Documents issued for bidding by Trade Contractors which are not incorporated into a Bid Package shall be the sole responsibility of the CMR, and the CMR shall ensure that any such work is properly contracted and paid for in accordance with the requirements of this Agreement and applicable law, except the extent a change to a bid package is required by the Owner results in damage or impact to the District Project. Nothing contained herein is intended to give the CMR the right to self-perform any such work.

3.4 **Bid-Time Master Project Schedule.** Based upon Bid Packages accepted by the Owner's Representatives, within mutually agreed upon calendar days of the Owner's acceptance of all Bid Packages proposed by the CMR, the CMR shall develop and submit to the Owner's Representatives for review and acceptance by the Owner a Bid-Time Master Project Schedule which is: (a) consistent with the Final Bid/Construction Strategy; (b) consistent with the Owner's time objectives for completion of Project Construction; and (c) reflects all of the Work of each Bid Package necessary to complete Project construction in accordance with the Design Documents. The Bid-Time Master Project Schedule shall be prepared with the most recent edition of commercially available software designed specifically for the scheduling of construction projects and which utilizes the critical path method of scheduling. The CMR's use of scheduling software other than Microsoft Project 2000, Primavera P3, SureTrak Project or Primavera Project Planner will require approval of the Owner's Representatives which may be granted, withheld, or conditioned in the sole discretion of the Owner's Representatives. The Bid-Time Master Project Schedule shall indicate the start/finish dates for the principal activities of each Bid Package necessary to complete Project construction. The CMR shall sequence, schedule and coordinate the work of each Bid Package in the Bid-Time Project Master Schedule in a logical, reasonable and orderly manner so that Project
construction can be completed for the Construction Budget and within the time established by the Owner. If the Owner's requirements for the Project include phasing elements of Project construction, the Owner's phasing requirements shall be set forth in the Bid-Time Master Project Schedule. The CMR acknowledges that the Bid-Time Master Project Schedule prepared by the CMR will be included in the Bid Documents for each Bid Package and that Trade Contractors bidding on a Bid Package will rely upon the Bid-Time Master Project Schedule in developing their respective Bid Proposals. Accordingly, the CMR is solely responsible for the accuracy and completeness of the Bid-Time Master Project Schedule and the reasonable, logical and orderly scheduling, sequencing and coordination of the Trade Contractors' construction and construction-related activities to complete Project construction within the time and Construction Budget established by Owner, except for changes to the Bid-Time Master Project schedule, required by Owner.

3.5 Construction Budget: CMR Estimate of Construction Costs. The CMR shall review the Owner's Construction Budget for the District Project as well as Estimates of Construction Costs prepared by others for the Project as depicted in Design Documents as of the date of this Agreement. Based upon such reviews, within mutually agreed upon calendar days of the date of this Agreement, the CMR shall submit to the Owner's Representatives the CMR's Preliminary Estimate of Construction Costs for the Project depicted in such Design Documents. Upon completion of the CMR's Constructability Reviews pursuant to this Agreement, the CMR shall prepare the Final Estimate of Construction Costs which shall reflect modifications to the Design Documents resulting from Owner accepted Constructability Review Comments. The CMR's Final Estimate of Construction Costs shall be prepared and submitted to the Owner's Representatives not more than the mutually agreed upon calendar days following the CMR's submission of its Constructability Review Comments. All of the CMR's Estimates of Construction Costs shall: (a) be in such format and with such detailed breakdown as directed by the Owner's Representatives including without limitation a detailed breakdown of estimated costs for construction for the District Project; (b) be organized by the standard specifications sections established by the "Design Documents" and the "Architects Project Manual"; and (c) be based upon the then current market conditions for labor, materials and equipment necessary to complete Project Construction in accordance with the Design Documents. If the CMR's Final Estimate of Construction Costs for the District Project, exceeds the Construction Budget by ten percent (10%) or greater, the CMR shall make recommendations to the District, for measures to reduce the Estimate of Construction Costs to conform with the Construction Budget for the District Project. If the CMR's Final Estimate of Construction Costs (for the District Project) is less than the Construction Budget (for the District Project) by ten percent (10%) or more, the CMR shall make recommendations to the District, for items to incorporate into the Project to conform the CMR's Estimate of Construction Costs with the Construction Budget for the District Project.
3.6 **Review and Assembly of Bid Documents.** The CMR shall review and recommend modifications to the Owner's standard forms of bid and contract documents for each Trade Contract. Within mutually agreed upon calendar days of the date of this agreement, the CMR shall assemble bid and contract documents for each Bid Package for submission to the Owner's Representatives for their respective review and acceptance on behalf of the Owner. The CMR shall not issue any bid or contract documents for bidding by Trade Contractors until the entire bid and contract documents for all Bid Packages are accepted by the Owner's Representative. Unless, directed by the Owner's Representative, the bid and contract documents shall include provisions, if applicable: (a) advising bidders of the implementation of a Labor Compliance Program ("LCP") in connection with all or portions of the Project; and (b) establishing a process for implementation of the LCP during Project construction and require all Trade Contractors' payment and performance bonds to name Owner and CMR as co-obligees. In addition, bid documents shall require all Trade Contractors to name Owner, the CMR, the Program Manager, and the Architect as additionally insured on all Trade Contractor required insurance policies evidenced by insurance certificate and endorsement 2010 11/85 endorsements.

3.7 **Authority to Bid.** The CMR shall review approvals heretofore obtained by or on behalf of the Owner relating to authority of the Owner to engage in bidding the Project for construction. The CMR shall assist the Owner in obtaining all regulatory approvals relating to authority of the Owner to engage in bidding Project construction have been obtained if there are limitations to the Owner's authority to bid the Project the CMR shall advise the Owner of the same and assist the Owner in removing such limitations.

3.8 **Bidding of Trade Contracts:**

3.8.1 **Advertisements.** The CMR shall develop, for review by the Owner's Representatives, such legal advertisements of the availability of Bid Packages for bidding as required by applicable law for the District. Upon the Owner's Representatives' approval of the CMR developed legal advertisements the CMR shall place such advertisements in a newspaper of general circulation in San Diego County. The CMR shall also make recommendations to the Owner's Representatives for placement of notices and issuance of other communications for the purpose of publicizing the availability of the Bid Packages for bidding by Trade Contractors. The CMR shall place such other notices and issue communications for such purposes as directed or approved by the Owner's Representatives.

3.8.2 **Trade Contractor Pre-Qualification.** The CMR shall make recommendations to the Owner relative to engaging in a pre-qualification process for all or some of the Bid Packages. If the Owner elects to engage in the pre-qualification process for any of the Bid Packages, the CMR shall: (a) develop pre-qualification criteria and the pre-qualification application; (b) develop and place advertisement(s) in a newspaper of general circulation in San Diego County of the availability of pre-qualification applications; (c)
develop and implement a program to inform potential bidders for the Bid Packages subject to pre-qualification of the pre-qualification process and to encourage potential Trade Contractors to engage in the pre-qualification process; (d) review and evaluate responses to the pre-qualification application; and (e) make recommendations to the Owner for selection of Trade Contractors deemed pre-qualified to submit Bid Proposals for Bid Packages subject to the pre-qualification process. Notwithstanding the CMR’s obligations pursuant to the preceding, the selection of potential bidders deemed pre-qualified shall be subject to the review and acceptance by the Owner’s Representatives.

3.8.3 Dissemination of Bid Documents to Trade Contractors. The CMR shall establish a system for reproduction and dissemination of Bid Documents to Trade Contractors and for maintaining records of the identities/addresses/telephone-fax numbers/e-mail addresses of the Trade Contractors who have obtained Bid Documents. Electronic files and paper copies of the CMR’s records relating to potential Trade Contractor bidders who have obtained the Bid Documents shall be available to the Owner upon request of the Owner’s Representatives to the CMR.

3.8.4 Trade Contractors Campaign: Disabled Veteran Business Enterprise (DVBE) Contracts. The CMR shall, by all appropriate means of communications, advise Trade Contractors of the availability of Bid Packages for bidding by Trade Contractors. The CMR shall endeavor to maximize the participation of qualified Trade Contractors whose principal place of business is situated in the San Diego Metropolitan area. The CMR shall maintain written or electronic records of contacts made and communications transmitted to/received from potential bidders for the Bid Packages. All such records shall be available for review and/or reproduction by the Owner upon request of the Owner’s Representative.

The CM acknowledges that, to the extent required by California law, the Owner may be under a legal obligation to incorporate Good Faith Effort requirements for Disabled Veteran Business Enterprises ("DVBE") in the Trade Contract bidding documents for Project construction. As necessary, the CM shall assist the Owner in undertaking all necessary and appropriate steps to develop and implement a process for contacting and notifying potential DVBE bidders or sub-bidders of Project bidding, to inform bidders for the Trade Contracts of the contacts made by the CM with potential DVBE sub-bidders and to facilitate communications between bidders for the Trade Contracts and potential DVBE sub-bidders so that the Owner can comply with DVBE requirements.

3.8.5 Pre-Bid Conference(s). The CM shall conduct pre-bid conferences, including the job walk(s), if one is required or scheduled in the Bid Documents for any Bid Package. The pre-bid conference shall include without limitation: (a) description of the District Project and each Bid Package; (b) description of the
process for bidding and award of Trade Contracts; and (c) material requirements of the Trade Contracts relating to bonds, insurance and similar administrative requirements of the Trade Contracts, including requirements/ information on Labor Compliance Program (LCP) and implementation of the LCP. The job walk shall provide Trade Contractors with an overview of the Site and an understanding of the physical limitations and constraints affecting the Work of the Project or portions thereof. As necessary or appropriate the CMR shall conduct separate, detailed pre-bid conferences with potential bidders for specific Bid Packages. The CMR shall develop a process for monitoring attendance by potential Trade Contractor bidders and their potential Subcontractors at job walk(s) and pre-bid conferences. The process developed by the CMR shall include without limitation information relating to: (a) each potential Trade Contractor bidder and each potential Subcontractor bidder to a potential Trade Contractor bidder in attendance; (b) the identity and contact information for the representative of each potential Trade Contractor and each Subcontractor to a potential Trade Contractor bidder (including address, telephone number(s), fax number(s) and email address); and (c) whether the representative of each potential Trade Contractor bidder and potential Subcontractors were in attendance for the entirety of the job walk or pre-bid conference, as applicable. The CMR shall record and transcribe minutes of the pre-bid conferences and job walk(s). Minutes maintained by the CMR shall be issued by the CMR to all bidders who have theretofore obtained the Bid Documents, the Owner's Representatives and the Architect. The CMR shall also assist the Architect and the Owner with the preparation of Addenda to the Bid Packages as necessary during the bidding process in response to any questions by the Bidders. All addenda shall be issued by the Architect in a uniform format as approved by the Owner.

3.8.6 Opening/Reading of Bid Proposals. The CMR shall, with assistance of the Owner’s Representatives, conduct the public opening and reading of Bid Proposals for Bid Packages. Upon completing the public opening and reading of Bid Proposals, the CMR shall develop and submit to the Owner’s Representatives written summaries of the results of bidding for each Bid Package; the summary shall include identities of the Bidders, the amount proposed by each Bidder, including amounts proposed for Alternate Bid Items, if any included in the bidding for any Bid Package and the identification of the apparent low bidder for each Bid Package consistent with the method for selection identified in the applicable Bid Packages.

3.8.7 Review of Bid Proposals: Recommendations for Award of Trade Contracts. The CMR shall review submitted Bid Proposals to determine: (a) whether the bidder submitting the Bid Proposal is a responsible bidder; (b) whether the Bid Proposal is responsive to material bidding requirements for the Bid Package; and (c) the price proposed for the base scope of Work of each Bid Package and for each Alternate Bid Item, if any, included in the bidding of any Bid Package. The CMR shall make recommendations to the
Owner regarding: (a) rejection of a Bid Proposal based upon the "non-responsibility of the bidder; (b) rejection of a Bid Proposal for non-responsiveness to material bidding requirements of a Bid Package; (c) rejection of a Bid Proposal for any other reason; (d) rejection of all Bid Proposals; and (e) award of Trade Contracts. To the extent that the bidding for a Trade Contract include Alternate Bid Items, the CMR shall make written recommendations for the Owner's Representatives for the Alternate Bid Items, if any, to be included in the scope of the Trade Contracts awarded by the Owner. The CMR shall make written recommendations to the Owner's Representatives for award of the Trade Contracts. The CMR is not authorized to award any Trade Contract. Award of a Trade Contract shall only be by action of the Owner.

3.8.8 Owner Assignment of Trade Contracts to CMR. Within mutually agreed upon calendar days of the date that a Trade Contractor awarded a Trade Contract returns the executed Agreement for the Trade Contract and other documents/instruments required to be submitted with the executed Agreement (including without limitation, Certificates of Insurance, Bonds, etc.), the Owner, CMR, Trade Contractor and the Trade Contractor's Surety shall execute an assignment of each Trade Contract from the Owner to the CMR (collectively hereinafter "the Assignment"). The Assignment shall assign to the CMR all of the rights and obligations of the Owner under each Trade Contract, except for rights and remedies of the Owner relating to warranty obligations and latent defect obligations of the Trade Contractor and the Owner retained rights set forth in this Agreement. However, the CMR shall remain responsible for assisting the Owner in the enforcement of its warranty rights as described herein.

3.8.8.1 Owner Retained Rights. Notwithstanding the effectuation of an Assignment of a Trade Contract pursuant to the foregoing, the Owner retains the right to have any Trade Contract re-assigned to the Owner upon occurrence of: (a) an event of CMR default under this Agreement which is not cured within the time permitted for cure actions by the CMR under this Agreement; or (b) if the Owner reasonably determines that the CMR is encountering adverse financial circumstances or (c) termination by the Owner in accordance with the termination provisions of this Agreement. Re-assignment of a Trade Contract from the CMR to the Owner shall be effectuated by the Owner's written notice to the CMR of the Owner's exercise of its rights of re-assignment and the effective date of such re-assignment. Except for the written notice described above, no other action shall be required of the Owner or the CMR to effectuate a re-assignment of a Trade Contract to the Owner. Notwithstanding re-assignment of a Trade Contract from the CMR to the Owner pursuant to the foregoing, the CMR's obligations hereunder relating to any such re-assigned Trade Contract shall be in accordance with the provisions of this Agreement.
3.8.8.2 Escrow Account for Trade Contract Funds. Owner and CMR may, upon mutual agreement, cause a Trade Contractor Escrow Payment Account to be opened at a mutually agreeable financial institution. Owner and CMR shall meet and confer regarding management, control and procedures related to the deposit and disbursement of Trade Contractor payments from the escrow account.

ARTICLE 4

CONSTRUCTION PHASE

4.1 Administration and Coordination of Trade Contracts and Construction. CMR shall provide administrative, management and related services necessary to administer the Trade Contracts and to schedule, sequence and coordinate the Work of the Trade Contractors during the Construction Phase of the Project so that the Owner's Project objectives (including without limitation, budgetary and time objectives) are achieved and that the work of each Trade Contract is completed in strict conformity with the requirements of each Trade Contract. The CMR's responsibilities include without limit: (a) written notice to the Owner of the CMR's intent to issue Notice(s) to Proceed directing commencement of work under the Trade Contracts; (b) scheduling, coordinating and conducting pre-construction and construction meetings; recording, maintaining and distributing minutes thereof; (c) in consultation with the Architect, develop and implement procedures for the submission and processing of Submittals required by each Trade Contract; (d) in consultation with the Owner and the Architect, develop and implement procedures for the handling and disposition of the Trade Contractors' requests for information or clarifications; (e) establish and implement procedures for the transmittal and receipt of communications, drawings and other information between the Owner, Owner's Representatives, CMR, Architect, Inspector, Test/Inspection service and the Trade Contractors relating to Project construction; (f) assist the Owner in selection and retention of Test/Inspection Service Providers and the Inspector; (g) schedule, sequence and coordinate activities of the Trade Contractors; and (h) allocate Site staging and storage areas among the Trade Contractors.

4.2 Monitoring of Construction Costs. CMR will monitor on-going Construction Costs and advise the Owner of the financial condition of the Project by: (a) development of Project cash flow reports, forecasts and other financial reports to the Owner, including those reflecting variations between actual Construction Costs and the Construction Budget and estimated costs of unperformed District Project activities; (b) maintaining records reflecting the actual costs for activities completed or in progress, including records relating to work performed on a unit cost basis and additional work performed by the Trade Contractors on a time and materials basis; (c) monitor and advise the Owner of costs pertaining to potential, pending and completed changes to any Trade Contract; and (d) advising and making recommendations to the Owner for adjustments to the Construction Budget relative to actual or anticipated Construction Costs. Data, information and analysis of Project Construction Costs pursuant to the foregoing shall be maintained for the District Project. The CMR shall prepare and
submit cost reports (which summarize and present in a logical format the information derived from (a)-(d) above, to the Owner's Representatives on a monthly basis; provided that if the Owner's Representatives reasonably determines that more frequent cost reports are required, the CMR shall comply with the directive(s) of the Owner's Representatives. The information compiled by the CMR and reports generated by the CMR relating to Construction Costs shall be in such detail and format as required by the Owner's Representatives, including without limitation cost reports for the District Project. In addition the extent of detail and the nature of the format of such reports, the information compiled by the CMR and reports generated by the CMR shall specifically indicate the original Contract Price of each Trade Contract, the extent of adjustment to the original Contract Price for each Trade Contract by Owner approved Change Orders and the extent of potential further adjustment to the original Contract Price of each Trade Contract as of the date of the CMR's report based upon the Change(s) or potential Change(s) known to the CMR at the time of the CMR's preparation of a cost report for a Trade Contract. The CMR shall submit written reports to Owner once a month, or as otherwise mutually agreed, which summarize and track construction costs.

4.3 Payments to Trade Contractors.

4.3.1 Trade Contractors' Applications for Progress Payments. The CMR shall develop and implement procedures for Trade Contractors' submittal of Applications for Progress Payments and the review, processing and disbursement of Progress Payments to Trade Contractors, along with associated forms and reporting systems. The CMR shall ensure that all Trade Contractor applications conform to the Schedule of Values submitted by the individual Trade Contractors pursuant to the requirements of the Trade Contract Documents. The Application for Progress Payment shall be submitted on appropriate forms approved by the Owner which are the same, or substantially similar to AIA Forms G702 and G703. The CMR shall, along with the Architect and Inspector, review and certify to the District the amount due on Trade Contractors' Application for Progress Payment. CMR's Progress Payment certifications shall constitute the CMR's representation to the Owner that, based on CMR's observations and professional evaluation at the site, the data in each Application for Progress Payment, and to the best of CMR's knowledge, information and belief, the Work has progressed to the point indicated in the Application for Progress Payment and the quality of the Work is in generally in accordance with the Contract Documents for the Trade Contract subject only to results of subsequent tests, inspections and other procedures, minor deviations from requirements of the Trade Contracts correctable prior to completion and any specific qualifications expressed by CMR in its certification. CMR's issuance of a Certificate pursuant to the preceding shall be a representation that the Trade Contractor(s) is/are entitled to payment in the amount so certified. The CMR's review of Applications for Progress Payment shall be undertaken and completed in a timely manner so that its Progress Payments due each Trade Contractor are disbursed within the
time permitted by applicable law without incurring interest liability or other penalties/liabilities. Construction payments will have a ten percent (10%) retention authorized until Trade Contractor's work has been formally accepted per Public Contracts' Code.

4.3.2 Owner Disbursement of Progress Payments. The Owner shall disburse proceeds to the CMR due for progress payments due Trade Contractors under a Trade Contract upon the CMR's presentation of: (a) the Trade Contractor's request for payment; (b) documentation supporting the Trade Contractor's payment request; and (c) the verification/certification from the CMR, Architect and Inspector of the amount due the Trade Contractor on such payment request, based on the applicable provisions of the Trade Contract. Within mutually agreed upon calendar days of the date of the CMR's submission of all of the foregoing to the Owner, the Owner shall make payment to the CMR of the amount verified by the CMR, Architect and Inspector as being due the Trade Contract, except to the extent that the Owner's payment of such amount or any portion thereof is: (a) subject to withholdings for Stop Notice, Prevailing Wage Rate violations or other withholdings of payment(s) due the Trade Contract under the terms of the Trade Contract or by operation of law; or (b) in excess of the CMCC as that term is defined herein. Within mutually agreed upon calendar days of its receipt from the Owner of a payment designated for a Trade Contractor, the CMR shall disburse the same to the Trade Contractor.

4.3.3 Form and Timing Of Submission And Disbursement. The CMR shall implement a process pursuant to which it collects all of the Trade Contractor's applications for payment for a given month and submits a single itemized statement to the Owner, no later than the 30th day each month. This statement shall identify the cumulative amount of Trade Contractor billings for which the Owner will issue a check to the CMR. The Owner shall issue a check to the CMR for the total amount identified in the statement within fifteen (15) days of receipt. The CMR will then be responsible for making the payments to the Individual Trade Contractors. The statement will also include a separate billing for the compensation due to the CMR for its services. Prior to seeking payment for any CMR services related to the Trade Contractors, the CMR shall compile all of the available Schedule of Values submitted by the Trade Contractors and prepare for the Owner's review and approval a Master Schedule of Values including all of the Trade Contractors. The Owner shall use this Master Schedule of Values to disburse all payments, but will issue the payments due only to the CMR by separate check. CMR shall ensure that all such progress payments for Trade Contractors are timely made under applicable law, which requires that payment be made within thirty (30) days of a properly submitted, undisputed payment request pursuant to Section 20104.50 of the Public Contract Code. The CMR shall indemnify the Owner against any and all claims arising from or related to the failure of the CMR to comply with the prompt payment requirements under the Public Contract Code.
unless the Owner makes payment to the CMR after thirty (30) days and the
Owner's late payment results in the CMR receiving payment designated for a
Trade Contractor from the Owner, thirty (30) days after the CMR's
Application for Progress Payment.

4.4 **Substantial Completion; Punchlist.** Upon the Architect issuing a Certificate of
Substantial Completion for a Trade Contract, the CMR shall inspect the Work of the
Trade Contract to verify the Trade Contractor’s achievement of Substantial
Completion. If upon such inspection, the CMR determines that notwithstanding the
Architect's issuance of the Certificate of Substantial Completion the Trade Contractor
has not achieved Substantial Completion, the CMR shall: (a) meet and confer with the
Architect to address/resolve differences between the CMR and the Architect; (b)
notify the Owner in writing of its determination; (c) identify the portions of the Work
of the Trade Contract to be completed in order for Substantial Completion to be
achieved; and (d) set forth recommendations to the Owner for measures to secure
Substantial Completion of the Trade Contract. If authorized by the Owner, the CMR
shall enforce measures necessary to achieve Substantial Completion of a Trade
Contract.

4.5 **Project Progress.**

4.5.1 **Master Project Schedule.** CMR shall, within mutually agreed upon days of
the Assignment of Trade Contracts, develop an overall comprehensive Project
Schedule for construction of the Project showing the activities of each of the
Trade Contractors necessary for completion of Project construction ("Master
Project Schedule") which is consistent with the Owner's objectives for
completing Project construction. CMR will incorporate the Trade Contractors’
separate Construction Schedules into the Master Project Schedule to the extent
that the same do not impair the Owner's time objectives for completing Project
construction. During the course of Project construction and based upon Trade
Contractors' updated Construction Schedules, CMR shall monitor and update
the Master Project Schedule on a monthly basis or more frequently as may be
requested from time-to-time by the Owner so that the Owner is kept fully
informed at all times of the status and progress of overall Project construction
and the status of each Trade Contractors’ construction progress. Where the
actual rate of Project construction progress is behind that indicated by the
Master Project Schedule, CMR shall advise and make recommendations to the
Owner for remedial action. The CMR shall implement and enforce remedial
measures as authorized by the Owner.

4.5.2 **Trade Contractors' Schedules.** CMR shall review the Trade Contractors’
Construction Schedules and updates thereof, advising the Owner of
compliance with the terms of the Trade Contract along with remedial measures
appropriate to obtain compliance if necessary. The CMR shall implement and
enforce remedial measures as authorized by the Owner.
4.5.3 **Coordination of Construction Activities.** CMR shall coordinate the activities of the Trade Contractors with each other and those of the CMR, the Architect, Inspector, Test/Inspection Service Providers, others and the Owner in conformity with the Master Project Schedule, including the coordination and sequencing of Trade Contractors' construction activities so that Site space is appropriately allocated and the progress of construction per the Master Project Schedule is maintained. Material obligations of the CMR under this Agreement are scheduling, coordination and sequencing the activities of the Trade Contractors in a manner so that Project construction is completed in accordance with the Guaranteed Maximum Construction Cost/ Guaranteed Completion Date (GMCC/GCD), as more particularly described herein.

4.5.4 **Progress Records.** CMR will maintain records of the progress of Project construction, including written progress reports and photographs reflecting the status of Project construction and percentage completion and submitted to the owner monthly. CMR will maintain daily records during Project construction showing weather conditions, Trade Contractors and their Subcontractors at the Site, work accomplished under each Trade Contract, problems encountered and other matters materially affecting the Project, completion of the Project or Construction Costs.

4.5.5 **Final Completion.** Upon the Inspector and/or the Architect issuing a Certificate of Final Completion for a Trade Contract, the CMR shall inspect the Work of the Trade Contractor and confirm that the Trade Contractor has fully complied with all requirements of the Trade Contract relating to the Work and the Trade Contractor's other obligations under the Trade Contract and that Final Completion under the Trade Contract has been achieved. If upon such inspection and confirmation, the CMR determines that notwithstanding the Certificate of Final Completion issued by the Inspector or the Architect, the obligations of the Trade Contractor under its Trade Contract have not been fully performed in accordance with the terms of the Trade Contract and that Final Completion has not been achieved, the CMR shall: (a) meet and confer with the Architect/Inspector to address and resolve differences concerning final completion; (b) notify the Owner in writing of its determination; (c) identify the portions of the Work of the Trade Contract or other obligations of the Trade Contractor to be completed in order for Final Completion to be achieved; and (d) set forth recommendations to the Owner for measures to secure Final Completion of the Trade Contract. If authorized by the Owner, the CMR shall enforce measures necessary to achieve Final Completion of the Trade Contract. Upon determining that Final Completion of a Trade Contract has been achieved, the CMR shall issue its Certificate of Final Completion for that Trade Contract, as applicable.

4.6 **Site Observations.**

4.6.1 **CMR On-Site.** During Project construction and at all times during which there are construction activities under the Trade Contracts at the Site, CMR shall
have its Project Manager or Field Superintendent at the Site, to observe, coordinate and manage the activities of the Trade Contractors. CMR shall maintain at the Site the Trade Contracts, Drawings, Specifications, approved Change Orders, Submittals, applicable codes, rules and regulations and other written or electronic materials relating to the District Project.

4.6.2 Construction Quality. The CMR shall guard the Owner against defects and deficiencies in construction and workmanship on the basis of its Site observations, and a quality control program established and implemented hereunder to monitor the workmanship of the Trade Contractors for conformity with: (a) accepted industry standards; (b) applicable laws, codes, regulations, ordinances or rules; or (c) and the requirements of the Trade Contracts. The CMR shall, without adjustment of the Contract Price hereunder or the GMCC (as that term is used and defined herein) be responsible and liable for the correction of any portion of the Project installed or constructed by a Trade Contractor which is not in conformity with: (a) accepted industry standards; (b) applicable laws, codes, regulations, ordinances or rules; or (c) the requirements of the Trade Contract.

4.6.3 Site Safety.

4.6.3.1 General. The CMR shall develop and implement Site safety programs as necessary to comply with applicable law, code, rule or regulation and as appropriate for the Site.

4.6.3.2 Owner's Safety Program or Requirements. Prior to any Trade Contractor's performance of Work at the Site, the CMR Shall review the Owner's safety program or safety requirements, if any, meet and confer with the Owner's Representatives to review the Owner's safety program/requirements and to incorporate the same into the CMR's Site safety programs.

4.6.4 Site General Conditions. At all times during construction activities at the Site, the CMR shall provide or cause to be provided the items of personal property and services identified in Exhibit A (General Conditions Items) attached to this Agreement. The items and services identified in Exhibit A are included in the General Conditions Costs portion of Contract Price set forth in this Agreement. All exclusions from the General Conditions shall also be set forth in Exhibit A.

4.6.5 Storm Water Pollution Prevention Plan (SWPPP). CMR shall ensure that the responsibility for the preparation of the SWPPP for the Project, and all stormwater compliance required by law, is incorporated into one or more Trade Contracts. The CMR shall ensure compliance and enforcement of the SWPPP for all Trade Contractors working on the Project, at all times.

4.7 Changes and Claims.
4.7.1 Coordination of Changes. The CMR acknowledges that Changes to the scope or Work of a Trade Contract during construction of the Project are likely to increase the Project Construction Costs, extend time for completing Project construction and prevent the Owner from realizing its Project objectives. Accordingly, the CMR acknowledges and agrees that a material obligation of the CMR under this Agreement is management of circumstances which may give rise to a Change to a Trade Contract in a manner so that only necessary Changes are implemented and that the cost/time for implementation of necessary Changes are minimized. CMR shall coordinate and disseminate correspondence, drawings and other written materials by and between the Trade Contractors, the Owner, Owner's Representatives, Inspector, Test/Inspection Service Providers and the Architect relating to Changes to the Trade Contracts. CMR shall coordinate and oversee the Trade Contractors' performance of Changes authorized by the Owner to ensure timely and full completion of Changes. CMR will maintain a log or other written records to monitor the pendency and disposition of Changes and Change Orders to keep the Owner advised of the status of the same and the actual or potential impact of any particular Change or Change Order or the cumulative effects thereof on Construction Costs or time for completion of Project construction.

4.7.2 CMR Notice to Owner: Owner Decisions. Upon the CMR becoming aware of circumstances which will or may require the issuance of a Change Order, the CMR shall: (a) notify the Owner's Representatives of such circumstances in a prompt and timely manner taking into account the then existing circumstances of Project construction including without limitation the progress of Project construction, safety and factors affecting completion of the potential change; (b) develop, in conjunction with the affected Trade Contractor(s) and the Architect, alternative approaches to addressing the circumstances resulting in a potential change; (c) provide the Owner's Representatives with written or graphic materials describing, in detail, alternative approaches to the potential change, along with time/cost impacts of each alternative; and (d) provide the Owner's Representatives with written recommendations for the Owner's selection of an approach to address the potential Change along with a description of the basis for the CMR's recommendation. Upon receipt of all of the foregoing described notices and other information, the Owner shall make timely decisions regarding authorization to proceed with a Change; the Owner's decisions shall be communicated in writing to the CMR through the Owner's Representatives.

4.7.3 Processing of Changes and Change Orders. CMR shall prepare Change Orders authorized by the Owner and distribute the same for execution by the Trade Contractor, Owner, Architect and Inspector. The CMR is not authorized, without the prior consent and authorization of the Owner, to effectuate or authorize any Change to any Trade Contract. The CMR shall be liable to the Owner for all direct and consequential costs, losses or damages resulting from the CMR's direction or authorization to effectuate a Change to any Trade
Contract without the prior direction and authorization of the Owner. The CMR shall administer submission of Owner authorized changes to regulatory agencies with jurisdiction over such changes by the Architect/Inspector; the CMR shall confirm, in writing, to the Owner's Representatives that all necessary regulatory approvals have been obtained for Owner authorized Changes; if necessary regulatory approvals have not been obtained or not obtained in a timely manner to avoid delay to Project construction and/or to avoid additional Project Construction Costs, the CMR shall notify the Owner's Representatives of such circumstances along with recommendations for securing such necessary approvals.

4.7.4 **Claims Handling.**

4.7.4.1 **General.** CMR shall develop a process and procedures for the review, evaluation, processing and disposition of claims asserted by Trade Contractors; CMR will make recommendations to the Owner as to merit, handling and disposition of Trade Contractors' claims. The CMR's obligations relating to Trade Contractor's claim shall continue notwithstanding completion of the Work under a Trade Contract or completion of Project construction, until all Trade Contractor claims are fully and finally resolved. The CMR shall ensure that its claims handling process and procedures are consistent with the claims requirements set forth the in the Trade Contract documents and California law, The CMR shall provide the Owner with notice and copies of all relevant claims information/documentation.

4.7.4.2 **Allocation of Responsibility for Trade Contractor Claims.** Liability of the CMR or the Owner for Trade Contractor Claims shall be based on the overall allocation of risks for Project Construction Costs as set forth in this Agreement. The Owner shall be liable for payments of a claim asserted under a Stop Notice filed against the Project proceeds for a Trade Contract only to the extent of: (a) undisbursed proceeds for that Trade Contract at the time that a Stop Notice is filed with the Owner; (b) the Owner has directed and authorized additional Work under a Trade Contract. The CMR shall immediately provide the Owner and the Owner's Legal Counsel with copies of all Stop Notices filed with the CM to ensure that Project funds are properly withheld for any valid Stop Notices, in accordance with State law.

4.7.5 **Emergencies.** In the event of emergency circumstances actually or potentially resulting in harm/injury to persons or property, the CMR shall, without prior notice or authorization of the Owner, take such actions or direct such actions by Trade Contractors as necessary to prevent or mitigate harm/injury to persons or property.
ARTICLE 5

CONSTRUCTION PHASE

5.1 **Review and Transmittal of Trade Contractor Close-Out Documents.** The CMR shall receive from the Trade Contractors the close-out documents and items to be submitted by each Trade Contractor under the terms of their respective Trade Contracts upon completion of obligations under a Trade Contract. The CMR shall, in conjunction with the Architect, review each Trade Contractor's close-out submittals to determine conformity with requirements of each Trade Contract; if the CMR determines that any Trade Contractor's close-out submittals are not in conformity with requirements of the Trade Contract, the CMR shall take necessary actions to secure compliance with the requirements of the Trade Contract. Within mutually agreed upon calendar days of receipt from a Trade Contractor, the CMR shall deliver to the Owner's Representatives all of the Trade Contractor's close-out submittals, except for the Trade Contractor's as-built drawings which the CMR shall transmit to the Architect for the Architect's preparation of the Record Drawings.

5.2 **CMR Project Records.** Within mutually agreed upon calendar days of the date of issuance of a Certificate of Final Completion for a Trade Contract, the CMR shall assemble and deliver to the Owner all of the Project records maintained during the Construction Phase by the CMR relating to the Trade Contract. Notwithstanding any provision of this Agreement to the contrary or any provision of law to the contrary, all documents, work product, whether of a tangible or intangible nature, whether in draft or final form and whether recorded in writing or any other medium, including without limitation, electronic files relating to the District Project or this Agreement are the sole and exclusive property of the Owner.

5.3 **Trade Contractors' Post-Construction Obligations.** If any Trade Contractor is obligated under the terms of its Trade Contract to provide work, labor materials or services after completion of Project construction, the CMR shall manage Trade Contractors' post-construction activities for conformity with requirements of the Trade Contract. The CMR shall secure Trade Contractors' compliance with their respective post-construction obligations, including, but not limited to, assisting the Owner in enforcement of its warranty rights against the Trade Contractors after the filing of the Notice of Completion, and throughout the entire time period that the Owner possesses such warranty rights pursuant to the Trade Contracts.

5.4 **Project Reports.** The CMR shall monitor the filing of DSA reports and other actions required by applicable law, rule or regulation to be undertaken by the Architect, Inspector or Trade Contractors upon completion of Project construction. If the Architect, Inspector or any Trade Contractor have not filed reports or taken other actions required upon completion of Project construction, the CMR shall secure compliance by the Architect, Inspector or a Trade Contractor with regard to such requirements. The CMR will assist the Owner in completion of actions to be undertaken by the Owner upon completion of Project construction, including without limitation preparation of Notices of Completion for each Trade Contract.
5.5 Project Closeout. The CM shall assist the Owner and Architect in preparing and filing all documentation necessary to closeout the Project with DSA and the Office of Public School Construction (OPSC) and to obtain final DSA approval and certification.

ARTICLE 6

CMR COMPENSATION

6.1 Contract Price for Basic Services. The Contract Price for the CMR's performance of the Basic Services under this Agreement shall be FOUR MILLION SIXTY THOUSAND AND NO/100 DOLLARS ($4,060,000.00) and shall consist of the following components: (a) a lump sum fixed fee of FIVE HUNDRED THOUSAND AND NO/100 DOLLARS ($500,000.00) for completion of the Pre-Construction Phase of the Basic Services ("the Pre-Construction Price"); (b) a lump sum fixed fee equal to ONE MILLION FOUR HUNDRED SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS ($1,475,000.00) for completion of the Construction/Post Construction, Construction and Post-Construction Phases of the Basic Services ("the Bid/Construction Price") in accordance with the GMCC; and (c) a not to exceed amount of TWO MILLION EIGHTY-FIVE THOUSAND AND NO/100 DOLLARS ($2,085,000.00) for the costs of General Conditions at the Site during the Construction Phase of the Project ("the General Conditions Price").

6.2 CMR Guaranteed Maximum Construction Costs (GMCC) and Guaranteed Completion Date (GCD). The CMR acknowledges and agrees that the Contract Price set forth in Article 6.1 above is based in part upon the CMR's guarantee to the Owner of the maximum Construction Costs for the District Project ("the Guaranteed Maximum Construction Costs" or "GMCC") and the CMR's guarantee of the date of the Substantial Completion of the District Project, which shall be no later than the date specified in the approved final GMCC/Final GCD statement as described in Section 6.2.4 below ("the Guaranteed Completion Date" or "GCD")

6.2.1 Establishment of GMCC: CMR Preparation of Initial GMCC Statement. Within ten (10) calendar days of the final construction estimate and the completion of the Bid Documents, the CMR shall submit to the Owner's Representatives a written statement setting forth the GMCC proposed by the CMR ("the Initial GMCC Statement") based upon the Design Documents current as of the date of this Agreement. The Initial GMCC Statement shall include: (a) confirmation that the scope of the Project for which the GMCC is submitted is identical to the scope of the Project as bid by the Trade Contractor; (b) if Alternate Bid Items are included in Trade Contractors awarded by the Owner, a confirmation that the Initial GMCC is inclusive of all Alternate Bid Items; (c) identification of items, if any, included in the scope of the Project and the Initial GMCC on the basis of an allowance amount rather than a fixed price amount (the statement shall specifically identify the amount of allowance allocated for each identified allowance item); (d) assumptions, if any, made by
the CMR in arriving at the Initial GMCC which are not expressly set forth in the Design Documents; and (d) the date of Substantial Completion of construction of the District Project. The CMR's preparations of the Initial GMCC Statement in accordance with the foregoing and within the time set forth above are material obligations of the CMR under this Agreement.

6.2.2 Costs Excluded From GMCC. The following costs are excluded from the GMCC, all of which shall be paid directly by the District:

(a) fees, costs or expenses paid to the Architect and its Design Consultants,
(b) costs of salaries and benefits paid to Owner employees engaged in connection with the Project,
(c) costs, fees or expenses paid to the Inspector,
(d) costs, fees or expenses paid to Test/Inspection Service Providers,
(e) costs or fees for obtaining permits or approvals (except to the extent included in the scope of a Trade Contract awarded by the Owner), and
(f) costs, expenses or fees of Design Consultants and other consultants retained by the District in connection with the Project ("District Consultants").

6.2.3 District Review of Initial GMCC Statement. Within mutually agreed upon calendar days of the Owner's Representatives receipt of the Initial GMCC Statement, the Owner's Representatives shall review and advise the CMR in writing of objections, if any, of the Owner to any portion of the Initial GMCC Statement. If the Owner's Representatives notify the CMR of any Owner objections to the Initial GMCC Statement, within ten (10) days thereafter, the Owner and CMR shall meet and confer in good faith to resolve objections interposed by the Owner and to reach mutual agreement as to the entirety of the Initial GMCC Statement. Upon review and approval of the Initial GMCC statement, the Owner's Representative shall counter-sign the statement and return a copy to the CMR.

6.2.4 Final GMCC; Final GCD. Within mutually agreed upon calendar days after the CMR's completing its review of all Bid Proposals for all Bid Packages and the CMR's determination of the identity of the responsible bidder submitting the lowest priced Bid Proposal for each Bid Package, the CMR shall prepare and deliver to the Owner's Representatives a written statement setting forth the proposed Final GMCC and confirming the Final GCD for the District Project for review and acceptance by the Owner. Within mutually agreed upon calendar days of the Owner's Representatives' receipt of the CMR's proposed Final GMCC and Final GCD, the Owner's Representatives shall advise the CMR of acceptance of the same or modifications thereto necessary for the Owner's acceptance. The CMR shall include in this statement, certification in
writing, that the GMCC includes all Construction Costs and costs associated with the Contract Price necessary to complete and deliver the Project, except for any adjustments to the GMCC allowed pursuant to this Agreement. If the Owner’s Representatives advise the CMR of any modifications to the CMR’s proposed Final GMCC or its proposed Final GCD, the CMR and Owner’s Representatives shall meet and confer in good faith to address and fully resolve any objections or the CMR to the Owner’s modifications to the CMR’s proposed Final GMCC or its proposed Final GCD. Upon mutual agreement between the Owner and the CMR concerning the Final GMCC and the Final GCD, the CMR shall prepare and submit to Owner’s Representative, the written statement memorializing the agreed upon Final GMCC and Final GCD, the Owner’s Representative shall then counter-sign a copy of the statement and return a copy to the CMR.

6.2.5 Adjustments to Final GMCC during Construction Phase. The GMCC reflected in the GMCC Amendment prepared pursuant to this Agreement shall not be modified during the Construction Phase except in the event of the following circumstances: (a) the Owner directs and authorizes a Change to a Trade Contract which is related solely to Owner discretionary/initiated changes (the foregoing excludes any Changes resulting from the acts, errors, omissions or other willful misconduct of the CM, including, but not limited to any errors or omissions in the Design Documents which the CM, exercising its professional standard of care as a licensed general contractor, should have identified in its constructability review); (b) unanticipated field conditions which could not be reasonably foreseeable by the CMR are encountered under a Trade Contract which requires Changes to the Trade Contract; (c) Changes to a Trade Contract are directed by a governmental agency with jurisdiction over the Project or portions thereof, which could not be reasonably foreseen or anticipated by the CMR at the conclusion of the Pre-Construction Phase of Basic Services under this Agreement; (d) Changes to a Trade Contract are necessitated by amendment(s) or enactment(s) of laws, rules, ordinances or regulations applicable to the Project or portions thereof which could not be reasonably anticipated or foreseen by the CMR at the conclusion of the Pre-Construction Phase of Basic Services; or (e) Changes to a Trade Contract resulting from emergencies not caused, in whole or in part, by the acts, omissions or other conduct of the CMR or its employees, agents or representatives. Adjustments to the Final GMCC, after approval of the relevant change order(s) to the applicable Trade Contract(s) by the Owner, shall be reflected in a written statement duly executed by the Owner and the CMR (“GMCC Adjustment Statement”). Notwithstanding any adjustments to the GMCC pursuant to the foregoing, the Contract Price for Basic Services under this Agreement shall not be modified.

6.2.6 Adjustment to GCD during Construction Phase. The Final GCD shall be subject to amendment during the Construction Phase only if: (a) the Final GMCC is modified in accordance with this Agreement and the modified
GMCC directly affects the time for completion of Project construction; (b) the Owner directs or authorizes the suspension of construction of the Project as a whole, or suspension of construction under any Trade Contract and such directive or authorization actually delays Substantial or Final Completion of the Project; (c) the Owner directs or authorizes delays to construction of the Project as a whole or delays to construction under any Trade Contract and such directive or authorization actually delays Substantial or Final Completion of the Project; or (d) completion of construction of the Project is delayed by the acts or omissions of the Owner or its employees, agents or representatives (excluding delays caused by the acts, errors, omissions or other willful misconduct of the CM, including, but not limited to any errors or omissions in the Design Documents which the CM, exercising its professional standard of care, should have identified in its constructability review). Adjustments to the GCD on account of a circumstance described above, after approval of the relevant change order(s) to the applicable Trade Contract(s) by the Owner, shall be reflected in a GCD Adjustment Statement duly executed by the Owner and the CMR.

6.2.7 CMR Notice of Adjustments to GMCC or GCD. An express condition precedent to any obligation of the District to consider or to adjust the Final GMCC or the Final GCD is the CMR’s delivery of written notice to the District no more than the mutually agreed upon calendar days following the CMR’s initial awareness of a circumstance which the CMR believes is justification for adjustment of the Final GMCC or Final GCD. The failure of the CMR to deliver written notice to the District of the occurrence of circumstances the CMR believes is justification for modification of the Final GMCC or the Final GCD shall be deemed the CMR’s waiver of any right to modification of the Final GMCC or the Final GCD for such circumstances, if the District suffers actual prejudice by lack of notice. If the CMR provides such written notice, the District shall thereafter promptly consider the request and equitably adjust the Final GMCC or the Final GCD, as applicable. If the source or nature of a basis for adjustment of the Final GMCC or the Final GCD is on-going, the CMR’s delivery of written notice within the time set forth above after the initial awareness of such event shall be deemed sufficient notice.

6.2.7.1 GMCC Adjustments. If the CMR has provided written notice in strict conformity with the foregoing, the extent of adjustment of the Final GMCC shall be equal to the amount of the adjustment of the Contract Price of the Trade Contract(s) affected by the circumstances set forth in Paragraph 6.2.5 of this Agreement.

6.2.7.2 GCD Adjustments. The GCD shall be adjusted only to the extent that Substantial Completion of Project construction is or will be delayed by circumstances justifying adjustment of the Final GCD, as forth in this Agreement. The CMR acknowledges and agrees that the adjustment of Contract Time under a Trade Contract which does not have an effect on
the Substantial or Final Completion of the Project shall not be a basis for adjustment of the Final GCD.

6.2.8 Mutual Contingency. In addition to the amount of the Final GMCC, upon mutual agreement of the Owner and the CMR on the amount of the Final GMCC, the CMR and Owner shall establish a contingency amount equal to Three and one-half percent (3.5%) of the Final GMCC ("the Mutual Contingency"). The mutual contingency shall be used and expended for unforeseen site conditions and for changes evaluated on a case-by-case basis as agreed to by the Owner and CMR if such changes are determined to have been unreasonable to foresee and are not included in the CMR's Constructability Review ("Site Conditions and Changes"). If agreed, the mutual contingency shall be used to pay for additional construction costs necessarily incurred to address and resolve such unforeseen site conditions and changes. All such costs reflected in Owner approved Change Orders to Trade Contractors relating to such unforeseen Site Conditions shall be deducted from the Mutual Contingency until the Mutual Contingency is exhausted. The foregoing notwithstanding, no portion of the Mutual Contingency may be applied to costs arising out of unforeseen site conditions and changes at the Site unless approved by the Owner. Any portion of the Mutual Contingency applied to costs arising out of unforeseen site conditions and changes shall be reflected in a written instrument duly executed on behalf of the CMR, Architect, DSA and Owners as necessary Costs for addressing and resolving such unforeseen site conditions and changes which exceed the Mutual Contingency shall be funded by the Owner. If upon Final Completion of the Project there is any remaining balance of the Mutual Contingency, the remaining balance shall be allocated seventy-five percent (75%) to the Owner and twenty-five percent (25%) to the CMR. In such event, the Owner will make payment of the portion of the remaining balance of the Mutual Contingency due the CMR within mutually agreed upon calendar days of the date of Final Completion of the Project.

6.2.9 CMR Responsibility for Construction Costs Exceeding Final GMCC. If the Project Construction Costs exceed the Final GMCC, including all adjustments thereto in accordance with this Agreement, the CMR shall be solely responsible for all Construction Costs exceeding the Final GMCC, as adjusted. If a Change Order, or portion thereof, is authorized by the Owner and issued for any purpose other than the circumstances set forth in Paragraph 6.2.5 of this Agreement, within mutually agreed upon calendar days of the issuance of such Change Order, the CMR shall deposit with the Owner the amount of each such Change Order attributable to circumstances other than those described in Paragraph 6.2.5 of this Agreement. The CMR's timely and complete deposit of funds pursuant to the foregoing is a material obligation of the CMR under this Agreement.

6.2.10 CMR Responsibility for CMR Caused Delays. If Substantial Completion of the Project occurs after the GCD (including adjustments to the GCD in
conformity with this Agreement) and such delay is caused by the CMR, the CMR acknowledges and agrees that the District will sustain losses, damages and costs which are extremely difficult to fix and ascertain. Accordingly, if Substantial Completion of the Project is not achieved within the GCD (including adjustments thereto) due to acts, omissions or other conduct of the CMR, the CMR agrees to pay to the Owner as damages and not a penalty, the amount of SEVEN THOUSAND AND NO/100 DOLLARS ($7,000.00) per calendar day beyond the adjusted GCD date until Substantial Completion of the Project is achieved ("CMR Liquidated Damages"). If acts or omissions of the CMR cause Substantial Completion of the Project not to be achieved as of the applicable GCD and there is any remaining balance of the Contract Price for Basic Services held by the Owner at such time, the Owner may thereafter withhold disbursement(s) of the Contract Price for Basic Services and General Conditions otherwise due the CMR under this Agreement, such withheld amounts will be credited to any balance due the Owner from the CMR. If after application of the credit balance described in the preceding sentence or if there is no remaining balance of the Contract Price for Basic Services or if the Owner elects not to exercise its rights under this Agreement to withhold the Contract Price from payment to the CMR, there is any amount of CMR Liquidated Damages due from the CMR to the Owner, the CMR shall make full payment of such amount within thirty (30) calendar days of the District's demand therefor. The CMR's obligations hereunder are material and shall survive termination of the Agreement or completion of Project construction.

6.3 District Payments of the Contract Price

6.3.1 Payment of the Pre-Construction Price. Upon commencement of the Pre-Construction Phase work, the CMR shall submit a monthly invoice to the Owner for a progress payment of the Pre-Construction Price prorated over the anticipated duration for such services as set forth in the approved schedule for Pre-Construction Services described in Section 3.1.1.

6.3.2 Payment of Construction/Post-Construction Price. Commencing in the month in which the CMR issues the first Notice to Proceed to a Trade Contractor, and in each month thereafter until the Project is completed, CMR shall submit to Owner on forms approved by Owner a written request for payment of the remaining Bid/Construction Price with such supporting data as Owner may request, covering the amount of the Project work then completed. Unless specified otherwise, such request and supporting data shall be submitted by CMR so that it is received by Owner no later than the last day of the month preceding the month in which payment will be made. Upon Owner's approval, Owner will make a progress payment of the Construction/Post Construction Price to the CMR in the amount of ninety per cent (90%) of the estimated value of the Project work performed through the date of the payment request.
6.3.3 Payment of General Conditions Price. Commencing in the month in which the CMR issues the first Notice to Proceed to a Trade Contractor, and in each month thereafter until the Project is completed, CMR shall submit to Owner on forms approved by Owner a written request for payment of the remaining General Conditions Price with such supporting data as Owner may request, covering the amount of the Project work then completed. Unless specified otherwise, such request and supporting data shall be submitted by CMR so that it is received by Owner no later than the last day of the month preceding the month in which payment will be made. Upon Owner's approval, Owner will make a progress payment of the General Conditions Price prorated over the term of the GCD to the CMR in the amount of ninety-five per cent (95%) of the estimated value of the Project work performed through the date of the payment request.

6.3.4 District Payments of Contract Price. Within mutually agreed upon calendar days of the date of the District's receipt of CMR's billing invoices, District will make payment to CMR of undisputed amounts of the Contract Price due for Basic Services, authorized Additional Services, General Conditions costs and Allowable Reimbursable Expenses. No deductions shall be made or withheld from payments due CMR hereunder on account of any penalty, assessment, liquidated damages or other amounts withheld by the District from payment to the Architect or any Trade Contractor. The District may, however, withhold or deduct from amounts otherwise due CMR hereunder if CMR shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after CMR has fully cured it failure of performance, less costs, damages or losses sustained by the District as a result of such failure of performance of a material obligation hereunder.

ARTICLE 7

INSURANCE AND INDEMNITY

7.1 CMR Insurance.

7.1.1 Workers' Compensation and Employer's Liability Insurance. CMR shall purchase and maintain Workers' Compensation Insurance covering claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts under which CMR may be liable. CMR shall purchase and maintain Employer's Liability Insurance covering bodily injury (including death) by accident or disease to any employee which arises out of the employee's employment by CMR. The Employer's Liability Insurance required of CMR hereunder may be obtained by CMR as a separate policy of insurance or as an additional coverage under the Workers' Compensation Insurance required to be obtained and maintained by CMR hereunder.
7.1.2 Commercial General Liability and Property Insurance. CMR shall purchase and maintain Commercial General Liability and Property Insurance as will protect CMR from the types of claims set forth below which may arise out of or result from CMR’s services under this Agreement and for which CMR may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than CMR’s employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained (a) by a person as a result of an offense directly or indirectly related to employment of such person by CMR, or (b) by another person; (iii) claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; (iv) claims for damages because of bodily injury, death of a person or property damages arising out of ownership, maintenance or use of a motor vehicle; (v) contractual liability insurance applicable to CMR’s obligations under this Agreement; and (vi) for completed operations. The Owner shall each be an additional named insured to CMR’s Commercial General Liability insurance policy.

7.1.3 Professional Liability Insurance. CMR will procure and maintain professional liability insurance covering claims arising out of the performance of services under this Agreement.

7.1.4 Coverage Amounts. Minimum coverage amounts for policies of insurance obtained by the CMR hereunder shall be as follows:

<table>
<thead>
<tr>
<th>Insurance Policy</th>
<th>Minimum Coverage Amount</th>
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<tbody>
<tr>
<td>Worker’s Compensation</td>
<td>In accordance with applicable law</td>
</tr>
<tr>
<td>Employer’s Liability</td>
<td>One Million Dollars ($1,000,000)</td>
</tr>
<tr>
<td>Commercial General Liability</td>
<td>Two Million Dollars ($2,000,000) per occurrence; Two Million Dollars ($2,000,000) in the aggregate and Five Million Dollars ($5,000,000) umbrella excess liability</td>
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<tr>
<td>(including coverage for automobile liability and property casualty)</td>
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</tr>
<tr>
<td>Professional Liability</td>
<td>Two Million Dollars ($2,000,000) per occurrence and Four Million Dollars ($4,000,000) in the aggregate</td>
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</tbody>
</table>
7.1.5 **Policy Endorsements; Evidence of Insurance.** CMR shall deliver Certificates of Insurance to the Owner's Representatives which evidence each of the policies of insurance in the minimum coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) authorized to issue insurance by the State of California and to the reasonable satisfaction of the Owner. Coverages under each policy of insurance, whether by endorsement or otherwise, shall provide that such policy will not be materially modified, canceled or allowed to expire without at least thirty (30) calendar days advance written notice to the Owner. All policies shall contain a provision stating that the CMR's policies are primary insurance and that the insurance of the Owner or any other named insured shall not be called upon to contribute to any loss. All policies shall have a project specific aggregate.

7.1.6 **Builders Risk Insurance.** During the progress of construction of the Project, the parties shall discuss, review, and mutually agree in writing as to the responsibility and costs necessary for provision of one or more policies of Builder's Risk Completed Value Insurance covering all insurable work of the Project, including extended coverage and insurance against vandalism and malicious mischief, perils of fire, sprinkler leakage, acts of civil authorities, collapse and flood, to the full insurable value of the work of the Project and coverage for work of the Project whether in progress or completed. The Owner and CMR waive all rights against the other, the Architect, and the Trade Contractors for damages caused by perils covered by insurance obtained under this provision. The policy (ies) of Builders Risk Insurance shall contain express waivers of subrogation by the insurer(s) issuing such policy (ies) to the extent of damages or losses covered thereunder.

If the parties elect to have the CM obtain the Builder's Risk Insurance, the Owner will require the CM to obtain a Builders Risk Insurance policy; such policy will contain the appropriate waivers of subrogation described above. If requested by Owner, the CM shall provide Owner with three competitive quotes for the insurance of which Owner shall select one quote. Owner shall reimburse CM the actual cost of the Builder's Risk Insurance and pay all deductibles required.

7.2 **District General Liability Insurance.** Owner shall obtain and maintain General Liability Insurance covering Owner for claims of bodily injury, death or property damage arising out of the Project.

7.3 **Indemnity.**

7.3.1 **CMR Indemnity of Owner.** CMR shall indemnify, defend and hold harmless the Indemnified Parties from all claims, demands, liabilities, losses, expenses, costs, damages, actions and causes of action of any kind, type or nature including those of the Trade Contractors and other third parties arising out of...
this Agreement or the Project, including without limitation, claims for bodily injury, death, physical property damage (other than to the work of the Project itself and property damage covered by the Builders Risk Insurance obtained by the CMR or Trade Contractors) and demands, damages, expenses, losses, liabilities or other claims arising out of CMR's services hereunder or the negligent, willful acts, omissions, or other conduct of CMR, except to the extent caused by the active negligence or willful misconduct of an Indemnified Party. The Indemnified Parties are: the District, the District Superintendent, the District's Board of Trustees, and all individual members of the District Board of Trustees and the District Board of Trustees and the employees, officers, agents and representatives of the District. The CMR's obligations hereunder shall survive termination of this Agreement and the completion of obligations hereunder, until barred by the applicable statute of limitations. The CMR acknowledges and agrees that it shall not assert and expressly waives assertion of any defense or diminution of its obligation to defend, indemnify and hold harmless the Indemnified Parties based upon its actions or performance as an agent of the Owner.

7.3.1.1 Notwithstanding Section 7.3.1, CMR shall not be required to indemnify, defend, and hold harmless, nor shall CMR be required to name as additionally insured, the Architect or Project Inspector for any and all liability resulting from architectural, design and/or engineering services.

7.3.2 Owner Indemnity of CMR. The Owner shall indemnify, defend and hold harmless CMR from all claims arising out of this Agreement, including without limitation, claims for bodily injury (including death) and physical property damage (other than to the work of the Project itself and property damage covered by the Builders Risk Insurance obtained by the Trade Contractors) which arise out of the negligent or willful acts, or omissions of the Owner.

ARTICLE 8

TERMINATION; SUSPENSION

8.1 Termination for Default. Either the Owner or CMR may terminate this Agreement upon seven (7) calendar days advance written notice to the other if there is a default by the other Party in its performance of a material obligation hereunder and such default in performance is not caused by the Party initiating the termination. Such termination shall be deemed effective the last calendar day following the date of the written termination notice, unless during such seven (7) calendar day period, the Party receiving the written termination notice shall commence to cure it default(s) and diligently thereafter prosecute such cure to completion. In addition to the District's right to terminate this Agreement pursuant to the foregoing, the Owner may terminate this Agreement upon written notice to CMR if: (a) CMR becomes bankrupt or insolvent, which shall include without limitation, a general assignment for the benefit
of creditors or the filing by CMR or a third party of a petition to reorganize debts or for protection under any bankruptcy or similar law or if a trustee or receiver is appointed for CMR or any of CMR's property on account of CMR's insolvency; or (b) if CMR disregards applicable laws, codes, ordinances, rules or regulations. If Owner exercises the right of termination hereunder, the amount due CMR, if any shall be based upon Basic Services and General Conditions Costs incurred or provided prior the effective date of the Owner's termination of this Agreement, reduced by losses, damages, or other costs sustained by the Owner arising out of the termination of this Agreement or the cause(s) for termination of this Agreement. Payment of the amount due, if any, shall be made by Owner only after completion of the Construction Phase of the Project. CMR shall remain responsible and liable to Owner for all losses, damages or other costs sustained by Owner arising out of termination pursuant to the foregoing or otherwise arising out of CMR's default hereunder, to the extent that such losses, damages or other costs exceed any amount due CMR hereunder for Basic Services or General Conditions Costs.

8.2 Owner's Right to Suspend. The Owner may, in its discretion, suspend all or any part of the construction of the Project, work under a Trade Contract or CMR's services hereunder; provided, however, that if the Owner shall suspend construction of the Project, work under a Trade Contract or CMR's services hereunder for a period of sixty (60) consecutive calendar days or more and such suspension is not caused by CMR or the acts or omissions of CMR, upon cessation of such suspension, the Contract Price hereunder will be subject to adjustment to provide for actual costs and expenses incurred by CMR as a direct result of the suspension and resumption of Project construction or construction under a Trade Contract or CMR's services hereunder.

8.3 Owner's Termination of Agreement for Convenience. The Owner may, at any time, upon thirty (30) calendar days, or such other time as mutually agreed by the parties, advance written notice to CM terminate this Agreement for the Owner's convenience and without fault, neglect or default on the part of CMR. In such event, the Agreement shall be deemed terminated thirty (30) calendar days, or such other time as mutually agreed by the parties, after the date of the Owner's written notice to CMR or such other time as the District and CMR may mutually agree upon. In such event, the Owner shall make payment of the Contract Price to CMR for services provided through the date of termination plus actual costs incurred by CM directly attributable to such termination plus termination costs equal to five percent (5%) of the remaining and unpaid Contract Price. Termination by the Owner pursuant to this Section (or Section 8.1) shall entitle the Owner to re-assignment of any or all Trade Contracts as described in Section 3.8.8 above.

8.4 CMR Suspension of Services. If the Owner shall fail to make payment of the Contract Price when due CMR hereunder, CMR may, upon seven (7) calendar days advance written notice to the Owner, suspend further performance of services hereunder until payment in full is received. In such event, CMR shall have no liability for any delays or additional costs of District Project construction due to, or arising out of, such suspension.
ARTICLE 9

GENERAL.

9.1 Marginal Headings: Captions. The titles of the various Paragraphs of the Agreement and the Articles of these Conditions are for convenience of reference only and are not intended to and in no way shall enlarge or diminish the rights or obligations of CMR and Owner hereunder.

9.2 Cumulative Rights: No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by either party hereunder shall be deemed a waiver of any right or remedy afforded hereunder or acquiesce or approval of any breach or default by the other.

9.3 Notices. Notices CMR or Owner are required or desire to serve on the other shall be valid only if addressed to the other as set forth below or as modified by notice hereunder from time to time. Notices shall be effective only if by personal delivery requiring signature acknowledging receipt or by United States Mail, Certified, Return Receipt Requested, First Class, postage fully pre-paid. Notices effectuated by personal service shall be deemed effective as of delivery of such notices. Notices effectuated by United States Mail shall be deemed effective the third (3rd) working day after deposit in the United States Mail. Notices hereunder shall be addressed as follows:

If to District:

Nicholas Alioto, Vice President for Business & Financial Affairs
Southwestern Community College District
900 Otay Lakes Road,
Chula Vista, CA 91910

9.4 Disputes.

9.4.1 Continuation of CMR Services. Except in the event of the Owner's failure to make undisputed payment of the Contract Price due CMR, notwithstanding any disputes between Owner and CMR hereunder, CMR shall continue to provide and perform services hereunder pending a subsequent resolution of such disputes.

9.4.2 Mandatory Mediation. All claims, disputes and other matters in controversy between the CMR and the Owner arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association ("AAA") and the Construction Mediation Rules of the AAA in effect at the time that a Demand For Mediation is filed. Mediation proceedings hereunder shall be conducted in San Diego County. The Owner and CMR shall each bear
their respective costs and expenses associated with or arising out of any mediation proceeding commenced hereunder, except that the administrative costs of the mediation proceedings and the fees/costs of the mediator(s) shall be borne equally between the Owner and the CMR. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the Owner or the CMR commencing judicial proceedings.

9.4.3 Jurisdiction and Venue. If any matter in controversy between the Owner and the CMR is not fully and finally resolved by mediation proceedings conducted pursuant to the foregoing, such unresolved matters in controversy shall be judicially resolved. Jurisdiction and venue for judicial proceedings relating to such unresolved matters in controversy shall be the San Diego County Superior Court, Central Division.

9.5 Severability. If any provision of this Agreement is deemed illegal, invalid or unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.

9.6 CMR Accounting Records. CMR shall maintain complete and accurate records of its personnel engaged in performing any service hereunder, personnel expenses and other General Conditions costs incurred in connection with performance under this Agreement. Records shall be maintained on the basis of generally accepted accounting principles applied consistently and shall be available for inspection or reproduction by the Owner upon the Project and the Agreement or the termination of this Agreement. CMR shall maintain accounting records for five (5) years or such longer period required by applicable law, code, rule or regulation, during which time such records shall be available to Owner or as otherwise required by law, code, rule or regulation for inspection or reproduction.

9.7 Definitions.

9.7.1 Trade Contract. A Contract for Construction awarded by the Owner to a Trade Contractor for the construction of a portion of the Project.

9.7.2 Trade Contractor. A Trade Contractor to the Owner under a Trade Contract awarded by the District for construction of the Project.

9.7.3 Design Documents. The Drawings, Specifications, calculations and other work product and Instruments of Service prepared by or on behalf of the Architect for the Project. Design Documents include surveys, soils reports and other documents prepared for the Project by a licensed Architect or registered Engineer, whether under contract to the Architect or Owner.

9.7.4 Architect. The District has chosen BCA Architects provide design services to the Corner Lot Project. References to the Architect include the BCA Architect.
and its consultants retained to prepare or provide any portion of the Design Documents.

9.7.5 **Submittals.** Shop Drawings, Product Data or Samples prepared or provided by a Trade Contractor or a Subcontractor to a Trade Contractor or suppliers illustrating some portion of the work of the Project.

9.7.6 **Site.** The physical area for construction and activities relating to construction of the Project.

9.7.7 **Project Budget.** The Project Budget is the total costs allocated by the Owner for bidding and construction of the Project by the Trade Contractors, exclusive of fees and costs of the Architect, CMR and other consultants of the Owner. Site acquisition costs and the costs of furniture, furnishing and/or equipment for the Project which are not included in the scope of the Trade Contracts. The Project Budget established by the Owner may be modified by the Owner from time-to-time.

9.7.8 **Construction Cost Estimates.** Construction Cost Estimates are estimates of the then current costs of labor, materials, equipment and services plus a reasonable allowance for the Trade Contractors' profit, overhead and administrative cost as necessary to complete construction of the Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Trade Contractor bids for the Project and Changes in the Work during construction of the Project; the allowance for contingency costs shall be consistent with the contingency established by the Owner in the Project Budget, if any.

9.7.9 **Construction Costs.** The costs of labor, materials, equipment (inclusive of the Trade Contractors' administrative costs/profit) necessary to complete construction of the Project.

9.7.10 **Project Schedule.** The Project Schedule is a written or graphic description prepared by the CMR showing the various activities necessary to complete Project construction, and the sequencing of such activities. The Project Schedule shall incorporate each Trade Contractors' Construction Schedule.

9.7.11 **Construction Schedule.** A Construction Schedule is the written or graphic description of the scheduling, sequencing and interrelationships of activities necessary to complete a Trade Contract. Construction Schedules are prepared by the Trade Contractors for review by the CMR and acceptance by the District and for incorporation into the Project Schedule by the CMR.

9.7.12 **Construction Contract Documents.** The Contract Documents issued by or on behalf of the Owner under a Trade Contract for construction of a portion of the Project. Construction Contract Documents include all modifications issued by
or on behalf of the District. Unless otherwise expressly stated, references to the Construction Contract Documents are referenced to all of the Contract Documents issued for all of the Trade Contracts awarded for Project construction.

9.7.13 Substantial Completion. Substantial Completion is when the Work of a Trade Contract and/or the Project has been completed and installed such that the Owner can take beneficial occupancy of such Work and the Work can be used or occupied for its intended purposes, subject only to minor corrections, repairs or modifications.

9.7.14 Final Completion. Final Completion is when all of the Work of a Trade Contract and/or the Project has been completed and installed (including items noted for correction, repair or modification upon Substantial Completion) and the Trade Contractor has completed all other obligations to be performed on its part under the Trade Contract.

9.8 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Owner and CMR concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or verbal. No term or condition of this Agreement shall be modified or amended except by writing executed by the District and CMR. This Agreement and the following enumerated documents constitute the entirety of the Agreement: the RFP, the RFP Response, and Exhibit "A" General Conditions Items/Services. Notwithstanding incorporation of the RFP and the RFP Response herein by reference, in the event of any conflict or inconsistency between the terms of this Agreement and any provision of the RFP or the RFP Response, the terms and provisions of this Agreement shall govern and control.

9.9 Assignment or Transfer. All Services to be furnished under this Agreement shall be deemed professional services. As such, the CMR shall have neither the right nor the power to assign, sublet, transfer or otherwise substitute its interest in or obligations under this Agreement without the prior written consent of the Owner.

9.10 Prohibited Interests.

9.10.1 Conflict of Interest. For the term of this Agreement, no member, officer or employee of the Owner, during the term of his or her service with the Owner, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

9.10.2 Conflict of Employment. Employment by the CMR of personnel on the payroll of Owner shall not be permitted in the performance of the Services, even though such employment may occur outside of the employee's regular working hours or on weekends, holidays or vacation time. Further, the employment by the CMR of personnel who have been on the Owner's payroll within one year prior to the date of execution of this Agreement, where this
employment is caused by and or dependent upon the CMR securing this or related Agreements with the Owner, is prohibited.

9.11 Equal Opportunity Employment. The CMR represents that it is an equal opportunity employer and it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

9.12 Independent Contractor. CMR is retained as an independent contractor and is not an employee of Owner. No employee or agent of CMR shall become an employee of Owner.

9.13 Drug/Smoke-Free Workplace. The Owner and all Owner projects are “drug-free” and “smoke-free” workplaces and, as such, require that the CMR be subject to the requirements mandated by California Government Code Sections 8350, et seq., when on the Project site. The Drug-Free Workplace Act of 1990 requires that every person or entity awarded a contract or grant for the procurement of any property or service from a State agency certify that it will provide a drug-free workplace and, in that respect, comply with certain obligations set forth in that Act. In addition, the Drug-Free Workplace Act provides that each contract or grant awarded by the State agency may be subject to suspension of payments or termination for failure to comply with such Act. It is the sole responsibility of the CMR to police and oversee its personnel on the Project. If the CMR fails to comply with the Drug-Free Workplace Act or the smoke-free workplace policy of the Owner, the Owner may enforce its lawful rights to suspend pending or subsequent payments and to terminate this Agreement and may pursue all other rights and remedies it may have against the CMR at law and/or in equity.

9.14 Prevailing Wages. The CMR is alerted to the requirements of California Labor Code Section 1770 et seq. and, if applicable the Owner’s LCP as described herein, which would require the payment of prevailing wages, where the services or any portion thereof are determined to be a public work as defined therein. The CMR shall provide support to the Owner’s LCP provider as requested by Owner.

9.15 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one in the same Agreement.

9.16 Exhibits and Recitals. All Exhibits and Recitals referenced in this Agreement and attached hereto are hereby incorporated by this reference into this Agreement.

9.17 Right to Employ Other Consultants. The Owner reserves the right to employ other consultants in connection with the Project, or to perform work related to the Project with the Owner’s own forces. The CMR shall notify the Owner if any such
independent action will in any way compromise the CMR's responsibilities under this Agreement.

9.18 **Severability.** If any provision of this Agreement is deemed illegal, invalid or unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted herefrom, but all remaining provisions will remain and continue in full force and effect.

9.19 **Third Party Rights.** Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the Owner and the CMR.

9.20 **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

9.20.1 This Agreement shall commence on July 15th, 2010, and shall be terminated on December 31, 2012.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date set forth above.

"DISTRICT"

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By: [Signature]
Raj K. Chopra, Ph.D.
Superintendent/President

"CMR"

ECHO PACIFIC CONSTRUCTION COMPANY, INC.

By: [Signature]
Name: Christopher A. Rowe
Title: President

APPROVED AS TO FORM:

BEST BEST & KRIEGER LLP

By: [Signature]
Tyree K. Darward, District Counsel

Originator: Nicholas C.A. Aliota, Vice President for Business and Financial Affairs.
Account No.: 5-0120-718741-970 (Proposition R Funds)

Purchasing, Contracting & Central Services
Contract Approval No. A3134.10
Date: November 1, 2010
**EXHIBIT "A"**

**GENERAL CONDITIONS**

**SOUTHWESTERN COMMUNITY COLLEGE**
**CORNER LOT PROJECT**
**ECHO PACIFIC CONSTRUCTION**

**GENERAL CONDITIONS**

<table>
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<th>STAFF</th>
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<tr>
<td>DESCRIPTION</td>
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<tr>
<td>PROJECT MANAGER</td>
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**NOT INCLUDED IN THE GENERAL CONDITIONS:**

01. Site Security Guards - Campus police to watch over the site
02. Bid Documents - Drawings & specs will go on a topographical companies web site. Keep printing costs to a minimum.
03. Construction Documents - Each trade contractor should receive ___ sets free of charge.
04. SWPPP Plan and Implementation - In Bid Package.
05. Cost of electricity and water for construction and trailers.
06. Cost of daily and final clean - in Bid Packages.
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Aioto, CPA
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Proposition R Construction Management at Risk Services and Architectural Services for Corner Lot Project, Central Plant, Replacement of DeVore Stadium Field House

RECOMMENDATION

Recommend award of RFP 116 for construction management at risk services and authorize the Superintendent/President to enter into contracts and any future amendments for the following:

1. Echo Pacific Construction (EPC) to provide professional construction management at risk services for the Corner Lot Project at a fixed fee equal to $1,475,000 (2.5% of the cost of construction estimated at Fifty-Nine Million Dollars) plus fixed fee pre-construction costs of $500,000, fixed lump sum fee general conditions costs of $2,085,000, normal and customary reimbursables at a 3% markup for a total fixed fee of $4,060,000.

2. Barnhart Balfour Bently (BBB) to provide professional construction management at risk services for the Central Plant Project and replacement of the DeVore Stadium Field House at a fixed fee equal to $825,000 (2.5% of the cost of construction estimated at Thirty-Three Million Dollars) plus fixed fee pre-construction costs of $174,450, fixed lump sum fee general condition costs of $1,178,550 and normal customary reimbursables at a 3% markup for a total fixed fee of $2,178,000.

3. Modify the award of RFP 109 pertaining to Gensler by adding the Replacement of the DeVore Stadium Field House to the Central Plant project at the same percentage fee.

OVERVIEW

The Corner Parcel Project will consist of approximately 142,000 gross square feet of administrative and conference spaces, a college bookstore, food services, art gallery, culinary arts program, age appropriate fitness center, a college police station, and additional continuing education and instructional partnership spaces.

The District issued RFP 116 for construction management at risk services for the Corner Lot Project, Central Plant, Replacement of DeVore Stadium Field House, National City Higher Education Center...
new two-story facility, and Package 1 and 2 secondary impacts of Corner Lot Project. The District received a total of 17 proposals for the initial RFP. Proposals were reviewed for consistency to the requirements of the RFP, the experience of each firm with community colleges, their experience with construction management at risk delivery and/or lease/leaseback delivery method and the qualifications of each firm.

The top five firms were invited to interview for the Corner Lot Project. The interview committee consisted of a representative of the Academic Senate, a member of the community, Vice President for Human Resources, Vice President for Business and Financial Affairs, corner lot architect and two members of the bond program staff. The firms were asked to provide a presentation explaining their experience with construction management at risk or lease/leaseback delivery method and experience with projects of this magnitude. After extensive deliberations, the committee short listed two firms for final negotiations for the Corner Lot Project. Upon completion of the negotiations, EPC was recommended. They have experience managing projects of this magnitude and they were the number one choice of the committee. EPC is a local construction company and their corporate office is in San Diego. The owner was born in San Diego and resides in the San Diego area. The proposed staff are all local San Diego residents. The Project Superintendent, a 20-year resident of Chula Vista and an alumnus of Southeastern College, has constructed projects of this size and magnitude. EPC has averaged 98% local subcontractor participation on their projects in the local area.

The recommended fee structure, identified in number one above, includes preconstruction services, including constructability reviews, estimating, value engineering, scheduling and assisting with bid evaluation. In addition to preconstruction services, the other two components that are normal and customarily associated with this delivery method are the management fee and monthly general conditions costs, including site fencing, trailers, project managers, and project superintendents, etc. During negotiations the District obtained agreement from EPC that all three of these fees would be rolled into one fixed fee so that the District will know exactly what it will cost for construction management at risk services to eliminate any disincentive to EPC to assist the District in reducing construction costs as would be the case if their fee was stated as a percentage of construction costs.

During the negotiations for the Corner Lot Project, it was determined that combining the building of the Central Plant and the replacement of the DeVore Stadium Field House in conjunction with the Corner Lot Project would be in the best interest of the District. This idea was discussed with the architectural firm, Gensler, who had been previously approved by the Governing Board to provide the design services for the Central Plant Project. They agreed that considerable savings on architectural services, construction and project management costs could be obtained by building one building instead of two.

BBB was the runner up construction management at risk firm for the Corner Lot Project. They have experience building central plants and stadiums and it is recommended to assign them the Central Plant Project and replacement of the DeVore Stadium Field House. BBB has a local San Diego office. They have proposed all local San Diego staff with previous experience working on Southwestern College projects. Similar to EPC fee structure, the proposed BBB fees will all be fixed fees as well.

FISCAL IMPACT/ACCOUNT

0-45123-718741-970 (Corner Lot Project) Proposition R
0-45123-718754-970 (Central Plant Project) Proposition R
0-45123-718722-970 (Replacement of DeVore Stadium Field House) Proposition R
### Progressive Ranking Tables

**Proposition "R" CM Risk Selection**

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<thead>
<tr>
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ITEM #26B25
MEMORANDUM

TO: Members of the Governing Board
    Southwestern Community College District

APPROVED BY: Denise Whittaker
    Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
    Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
    Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with Southern California Soils and Testing, Inc.
    Various Proposition R Projects

RECOMMENDATION

Recommend Ratification of Agreement No. A3210.11, related to RFP 124, with Southern California Soils and Testing, Inc., for specialty inspection, material testing, and geotechnical services, for the period December 9, 2010 to December 20, 2011, inclusive, in an amount not to exceed $18,000.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 124 on December 8, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The contract with Southern California Soils and Testing, Inc. has begun to and will furnish all equipment, materials and labor necessary for specialty inspection, materials testing, and geotechnical services for various Proposition R projects. Southern California Soils and Testing, Inc. has relevant project experience in similar size, scope, and complexity. These services have been and will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $18,000 Cost to the District/Account No:
5-46210-718734-970 (Central Plant – Proposition R Funds)
5-46210-718722-970 (Field House and DeVore Stadium Improvements – Proposition R Funds)

JRB:mk
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
Independent Contractor Agreement
(For short or long term contracts with a value of $3,001 and over)

WHEREAS, it is the desire of the Governing Board of the SOUTHWESTERN
COMMUNITY COLLEGE DISTRICT (hereinafter referred to as "District" or "Client") to
contract with SOUTHERN CALIFORNIA SOILS AND TESTING, INC., as an
Independent Contractor (hereinafter referred to as "Contractor" or "Engineer"); and
whereas such service will assist the Governing Board in discharging its legal obligation
to provide an adequate educational program; and whereas Government Code section
53080 authorizes the Governing Board to enter into contracts to obtain special services
and advice in financial, economic, accounting, engineering, legal or administrative
matters for the District; and

WHEREAS, Contractor has represented to the Governing Board that Contractor
is knowledgeable and qualified in skills required for this project and covenants that
Contractor is capable of performing the services required under this agreement; and

WHEREAS, the Governing Board recognizes that Contractor is acting as an
independent contractor in the performance of work under this contract, and that
Contractor shall be solely responsible for the payment of any and all claims for loss,
personal injury, death, property damage, or otherwise, arising out of any act or omission
of its employees or agents in connection with the performance of work under this
contract; and

WHEREAS, Contractor understands that, for purposes of this Agreement,
Contractor is not an employee of the District and does not qualify for employee benefits,
including workers' compensation benefits;

NOW THEREFORE, the following is agreed:

I. SERVICES AND PRODUCT(S) TO BE RENDERED BY THE INDEPENDENT
CONTRACTOR.

Contractor agrees to undertake, carry out and complete for the Governing Board,
in a satisfactory and competent manner, the geotechnical services outlined in the
attached Exhibit A.

II. COMPENSATION, MAXIMUM COST, AND PAYMENT.

(a) In consideration of the service to be rendered by Contractor as outlined in
this agreement and on the attached Exhibit A under Cost Information, the
Governing Board agrees to pay Contractor a total amount not to exceed
EIGHTEEN THOUSAND AND 00/100 DOLLARS ($18,000) for services
and product delivery and subsequent receipt of invoice for services
rendered and products delivered by Contractor.
(b) Invoice shall be processed within thirty (30) days upon receipt and approval by Southwestern Community College District of an invoice, in triplicate, showing services rendered for the period covered by the invoice.

(c) All invoices submitted must contain the following certification statement: "I certify that payment requested is for appropriate purposes and in accordance with the provisions of the Contract." All invoices must be signed by Contractor's Chief Financial Officer or designee.

(d) Contractor certifies that Contractor has not and will not receive pay for the same services or days of service by any other public agency.

(e) District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing services for District, unless otherwise specifically stated in this Contract.

III. PERIOD OF PERFORMANCE.

This period covered by this agreement shall begin on December 9, 2010 and shall terminate on December 20, 2011.

IV. CONFLICT OF INTEREST.

If the District determines that Contractor is a "Consultant" under Political Reform Act of 1974, Contractor shall comply with all applicable Conflict of Interest laws, including the filing of a Statement of Economic Interest, pursuant to the District's Conflict Code, under a disclosure category or categories as determined by the District's Superintendent/President.

V. INDEPENDENT CONTRACTOR.

Contractor, in the performance of this Contract, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the service to be provided under this Contract.

VI. TAXES.

Contractor acknowledges and agrees that it is the sole responsibility of Contractor to report as income its compensation received from District and to make the requisite tax filings and payments to the appropriate federal, state or
local tax authority. No part of Contractor’s compensation shall be subject to withholding by District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.

VII. MATERIALS.

Contractor shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Contract unless otherwise specifically stated in the Contract. Contractor’s services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession.

VIII. AUDIT AND INSPECTION OF RECORDS.

At any time during the normal business hours and as often as District may deem necessary, Contractor shall make available to District for examination at District’s place of business as specified herein, all data, records, investigation reports and all other materials respecting matters covered by this Contract and Contractor will permit the District to audit, and to make audits of all invoices, materials, payrolls, records of personnel and other data related to all matters covered by this Contract.

IX. CONFIDENTIALITY AND USE OF INFORMATION.

(a) Contractor shall hold in trust for the District, and shall not disclose to any person, any confidential information. Confidential information is information which is related to the District’s research, development, trade secrets and business affairs; but does not include information which is generally known or easily ascertainable by nonparties through available public documentation.

(b) Contractor shall advise the District of any and all materials used, or recommended for use by consultant to achieve the project goals, that are subject to any copyright restrictions or requirements. In the event Contractor shall fail to so advise the District and as a result of the use of any programs or materials developed by Contractor under this Contract the District should be found in violation of any copyright restrictions or requirements, or the District should be alleged to be in violation of any copyright restrictions or requirements, Contractor agrees to indemnify, defend and hold harmless, District against any action or claim brought by the copyright holder.
X. EQUAL OPPORTUNITY/NON-DISCRIMINATION.

Contractor shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual’s race, color, religion, sex, national origin, age, disability, medical condition, or marital status.

Contractor shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin. Contractor shall comply with the Americans with Disabilities Act and the Rehabilitation Act of 1973, as amended.

XI. HOLD HARMLESS.

Contractor agrees to indemnify, defend and hold harmless the District, its officers, agents and employees from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the Contractor in the negligent performance of this Contract. The District agrees to indemnify, defend and hold harmless Contractor from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts of omissions of the District in the negligent performance of this Contract.

XII. TERMINATION.

The District or the Contractor may, at any time, with or without reason, terminate this Contract upon the giving of thirty (30) days prior written notice to the other party. In the event of termination, the Contractor shall be entitled to payment only for acceptable and allowable work performed under this Contract through the date of termination. Written notice by the District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or not later than five (5) days after the day of mailing, whichever is sooner.

District may also terminate this Contract upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this Contract by the Contractor; (b) any act by Contractor exposing the District to liability to
others for personal injury or property damage; or (c) if Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency. Written notice by District of termination for cause shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the District may secure the required services from another contractor. If the cost to the District of obtaining the services from another contractor exceeds the cost of providing the service pursuant to this Contract, the excess cost shall be charged to and collected from the Contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District. Written notice by District shall be deemed given when received by the other party, or no later than five (5) days after the day of mailing, whichever is sooner.

XIII. INSURANCE

Contractor agrees to carry a comprehensive general liability insurance with limits of one-million dollars ($1,000,000) per occurrence combined single limit for bodily injury and property damage in a form mutually acceptable to both parties to protect Contractor and District against liability or claims of liability which may arise out of this Contract. In addition, Contractor agrees to provide an endorsement to this policy stating, "Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory." Prior to commencing the performance of services hereunder, Contractor shall provide District with certificates of insurance evidencing all coverages and endorsements required hereunder including a thirty (30) day written notice of cancellation or reduction in coverage. Contractor agrees to name District and its officers, agents and employees as additional insureds under said policy.

XIV. WORKER'S COMPENSATION INSURANCE.

Contractor agrees to procure and maintain in full force and effect Worker's Compensation Insurance covering its employees and agents while these persons are participating in the activities hereunder. In the event a claim under the provisions of the California Workers' Compensation Act is filed against District by a bona fide employee of Contractor participating under this Contract, Contractor agrees to defend and hold harmless the District from such claim.

XV. WARRANTY AND ORIGINALITY.

Contractor warrants that all material produced by the Contractor and delivered to Southwestern Community College District hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that
it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless the Governing Board from any costs, expenses and damages resulting from any breach of this warranty.

XVI. WORKS FOR HIRE.

Contractor understands and agrees that all matters produced under this Contract shall be works for hire and shall become the sole property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District.

Contractor consents to use of Contractor name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

XVII. RIGHTS IN DATA.

Contractor grants to the Governing Board the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this Contract.

XVIII. COMPLIANCE WITH APPLICABLE LAWS.

The service completed herein must meet the approval of the District and shall be subject to the District's general right of inspection to secure the satisfactory completion thereof. Contractor agrees to comply with all federal, state and local laws, rules, regulations, and ordinances that are now or may in the future become applicable to Contractor, Contractor's business, equipment and personnel engaged in operations covered by this Contract or accruing out of the performance of such operations.

XIX. PERMITS/LICENSES.

Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Contract.

XX. NON-WAIVER.

The failure of District or Contractor to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Contract shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.
XXI. SEVERABILITY.

If any term, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

XXII. ASSIGNMENT.

This Contract is not assignable by Contractor either in whole or in part, nor shall the Contractor further contract for the performance of any of its obligations hereunder, without the prior written consent of the Governing Board.

XXIII. LAWS GOVERNING.

This Contract shall be governed by and construed in accordance with the laws of the State of California.

XXIV. ENTIRE AGREEMENT/MODIFICATION.

This Contract and the Attachments hereto contain the entire agreement of the parties, and no representation, provision, warranty, term, condition, promise, duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Contract shall be binding or enforceable unless in writing and signed by each of the parties.

XXV. NOTICES.

All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if personally served or if sent by registered mail addressed to the parties at their address indicated in this Contract.

This Contract is entered into this 9th day of December, 2010.
SIGNATURE PAGE

IN WITNESS WHEREOF, the parties have executed this Contract as of the date thereof.

Southern California Soils and Testing, Inc.

Southwestern Community College District

Signature: ____________________________
Name: ________________________________
Title: _________________________________
Address: 83-740 Citrus Avenue Suite G
Indio, CA 92201-3438
Phone: _______________________________
Fax: _________________________________
Federal Tax ID: _______________________

Signature: ____________________________
Name: Denise Whittaker
Title: Interim Superintendent/President
Address: 900 Otay Lakes Road
Chula Vista, CA 91910-7299

Originator: Nicholas C. A. Alloto, Vice President for Business & Financial Affairs

Account Nos.:
5-45110-718734-970 (Central Plant Project – Proposition R Funds)
5-45110-718722-970 (Replacement of DeVore Stadium Field House – Proposition R Funds)

Approved as to Form by the office of the
Purchasing, Contracting & Central Services
Director
Approval No.: A3210-11
Date: 11/11/11
November 12, 2010

Robert DePew
Seville Construction Services, Inc.
900 Otay Lakes Road
Chula Vista, California 91910

Subject: EXHIBIT A
PROPOSAL
GEOTECHNICAL INVESTIGATION
SOUTHWESTERN COMMUNITY COLLEGE
900 OTAY LAKES ROAD
CENTRAL PLANT/FIELD HOUSE AND SERVICE BUILDINGS
CHULA VISTA, CALIFORNIA

Dear Mr. DePew:

INTRODUCTION

Southern California Soil and Testing, Inc. (SCS&T) is pleased to present this proposal to perform a geotechnical investigation for the subject project. SCS&T understands that the project will consist of the design and construction of the following structures on the Southwestern College Campus:

- Fourteen concession and restroom buildings.
- A four-story field house.
- A 1 story central plant.

In accordance with the Division of State Architects and the California Geological Survey a minimum of 2 borings need to be performed for each structure and at least 1 boring for every 5,000 square feet of the building foot print.

SCOPE OF WORK

Subsurface conditions will be explored by drilling exploratory test borings using a truck mounted drill rig equipped with a hollow stem auger. The total number

<table>
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<th>Number of Borings</th>
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<td>14 Restroom and Concession Structures</td>
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<tr>
<td>Field House</td>
<td>4</td>
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<td>Central Plant</td>
<td>2</td>
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<tr>
<td>Total Number of Borings</td>
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The borings will extend to depths of between about 5 and 40 feet or auger refusal, whichever is less. A SCS&T engineer or geologist will log the borings and obtain samples for examination and laboratory testing. The laboratory program will include moisture content and dry density determinations, classification tests, expansion index tests, corrosivity assessments and shear strength tests.

The results of the field and laboratory test programs will be evaluated to develop conclusions and recommendations regarding:

1. Subsurface conditions beneath the site.
2. Site Preparation
3. Criteria for seismic design in accordance with California Building Code procedures.
4. Alternatives for foundation support along with geotechnical engineering criteria for design of the foundations.
5. Resistance to lateral loads.
6. Lateral pressures for the design of retaining walls.
7. Estimated foundation settlements.
8. Support for slab-on-grade floors.
9. Corrosivity potential of the underlying soil in respect to concrete.

Results of the investigation will be summarized in a written report in accordance with the guidelines presented on California Geologic Survey's Note 48, complete with field and laboratory data. Four copies of the report will be submitted.

PERSONNEL

Mr. Garrett B. Fountain, a California Registered Geotechnical Engineer, will be the Engineer in Charge and primary point of contact of this project.

COST INFORMATION

We propose to provide the scope of work outlined above for a lump sum cost of $18,000. To cover our initial expenditures, $8,000 of the above estimated cost will be due at the time our services are authorized. The remainder of our charges will become due on completion of the written report and prior to its submittal. All subsequent communications with your consultants, contractors, or governmental agencies will be charged at our corresponding prevailing rates. Should any services provided by SCS&T for this project become subject to state or federal prevailing wage requirements, SCS&T will be compensated for those services at its prevailing wage rates from the date these requirements become effective through completion of the project.

This estimate is based upon the above-referenced scope and our 2010 Schedule of Fees. All prices herein are subject to variation and should either our Schedule of Fees or the scope of our services materially change, we reserve the right to review and resubmit a new proposal. The charges for our services, however, will always be invoiced in accordance with the Schedule of Fees specified at the time our work was authorized.
DEFINITION OF RESPONSIBILITY

We assume that the site plans to be furnished for our use will show the location of existing underground utility lines; hence, we will not be responsible for damage to any utility lines whose locations are not shown on these plans.

LIMITS OF LIABILITY

Consultant's liability for damages due to professional negligence will be limited to an amount not to exceed $50,000 or our fees, whichever is greater. Client further agrees to notify any person or entity who may perform work or provide services in connection with any design, report, or study prepared by Consultant of such limitation of professional liability, and to require, as a condition precedent to their performing any work or providing any services on the project, their written agreement that this limitation of Consultant's liability to all persons or entities arising out of or related to its services under this Agreement shall not exceed the above-stated limits. Because of the nature of subsurface investigations, we may cause damage to your site. It shall be the responsibility of the client and not SCS&T to return the site to its original condition.

REIMBURSABLES

SCS&T reserves the right to charge for provided services that fall outside of the contract in the form of reimbursables. These items will be invoiced separately and may include, but are not limited to the following consumables: magnetic particle powder, ultrasonic couplant, concrete cylinder cans, etc. The following are also included: mileage, travel time, equipment rental, administrative time utilized for photocopying, distribution lists, express mailing, archive searches, etc.

AUTHORIZATION

This proposal is valid for 90 days from the date initiated. Upon approval of this proposal, we will accept authorization to proceed upon receipt of both Professional Services Agreements signed by an officer of your company. In turn, we will send you a fully executed copy for your records. If you have any questions regarding this document or if we may be of further service, please contact our office at 619.260.4321.

SCS&T sincerely appreciates this opportunity to provide professional services to you on this project. We look forward to working with your team.

Respectfully Submitted,

SOUTHERN CALIFORNIA SOIL & TESTING, INC.

[Signature]

Garrett B. Fountain
Principal Geotechnical Engineer

GBF:aw

Attachments: 2010 Confidential Schedule of Fees
Professional Services Agreement
(1) Address see via e-mail at rds@pew.co
Southern California Soil and Testing, Inc.

Confidential Schedule of Fees for Professional Services
Effective January 1, 2010

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<td>QA/QC Technician (Third Party)</td>
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<td>Floor Flatness (S/H, S/S) Technician</td>
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<td>Coring - Asphalt, Concrete, Masonry and Gardi</td>
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<td>Noise Plant Inspector</td>
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<td>OSHO Inspector A, B</td>
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<td>OSHO Inspector C</td>
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<td>Sunday and National Holiday Rate (including the day after Thanksgiving)</td>
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<td>Minimum Professional Fee</td>
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<td>Minimum Field Services Fee</td>
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<td>Per Diem (variable, depending on location)</td>
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<td>Sample Pick Ups (San Diego, Riverside, San Bernardino Counties)</td>
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<th>EQUIPMENT AND MATERIALS</th>
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<tbody>
<tr>
<td>Nuclear Gauge</td>
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<tr>
<td>Concrete Equipment/Materials</td>
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<tr>
<td>Generator</td>
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<tr>
<td>Perimeter</td>
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<tr>
<td>Concrete Vapor Emission Kits (ASTM F 1869)</td>
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<tr>
<td>Water Spray Booth (ASTM E331 Certified)</td>
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<td>Metal 315 Spraying Machine</td>
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<tr>
<th>LABORATORY TESTS</th>
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<tr>
<td>Soil and Aggregate</td>
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<tr>
<td>Maximum Density, 4-inch mold (ASTM D1557)</td>
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<tr>
<td>Maximum Density, 6-inch mold (ASTM D1557)</td>
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<tr>
<td>Rock Compress for Maximum Densities</td>
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<tr>
<td>Plasticity Index (ASTM D4318)</td>
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<tr>
<td>Hydrometer Analysis (ASTM D422)</td>
</tr>
<tr>
<td>Collapsible Potential (ASTM D5533)</td>
</tr>
</tbody>
</table>
LABORATORY TESTS

SOL AND AGGREGATE (CONT)

Resistance Value, R-Value (Col 301, ASTM D2921)........ $265
California Bearing Ratio Includes Max Density C (ASTM D1883)........ 591
Sand Equivalent (Col 217, ASTM D2429)........ 83
Compaction (三条, 体积, 湿度, 可扩散性, 沥青质量等)........ 189
Sieve Analysis, Coarse (ASTM C136)........ 57
Sieve Analysis, Fine (ASTM C114)........ 71
Specific Gravity, Coarse (ASTM C127)........ 66
Specific Gravity, Fine (ASTM C29)........ 66
Dwelling Index (Col 217)........ 213
Expansion Index (ASTM D6359)........ 170
Sieve Analysis (ASTM D422)........ 60
Direct Shear, Normal Speed (ASTM D530)........ 260
Direct Shear, Slow Speed (ASTM D3980)........ 319

Asphalt Concrete

Five: Maximum Bulk Specific Gravity (Col 138) per piq........ $128
Five: Viscosity and Stablometer (Col 305/2500) per piq........ 168
Rice: Maximum Theoretical Specific Gravity (ASTM D2041)........ 256
Bulk Specific Gravity, Cores (ASTM C123)........ 56
Sieve Analysis, Extracted Aggregate (ASTM D694)........ 86
Percent Bitumen (ASTM D6307)........ 176

Additional laboratory testing prices available upon request.

TERMS AND CONDITIONS

All field services will be charged from prototype to prototype with the following minimum charges:

- A one-hour minimum charge will be applied to each service provided after 4:00 PM the previous day.
- A two-hour minimum charge will be applied to services performed after 8:00 AM on the previous day.
- A six-hour minimum charge will be applied to all field services requiring between four and six hours of work.
- A twelve-hour minimum charge will be applied to all field services requiring between six and twelve hours of work.
- Work in excess of eight hours up to twelve hours in a single day will be charged in 20-minute increments at 1.3 times the standard rate.
- Work in excess of twelve hours in a single day will be charged in one-hour increments at 2.0 times the standard rate.
- The Director of Industrial Relations (DIR) may adjust the charges as necessary to ensure the proper distribution of the project's costs.

Work performed by field or laboratory personnel outside of normal business hours (5:00 AM - 5:00 PM) will be charged the maximum of 1.3 times the standard rate. Reimbursement: SCS&I reserves the right to charge for services outside of the contract in the form of reimbursable charges. These fees include, but are not limited to, the following considerations: overtime, travel, meals, equipment rental, administrative time utilized for photocopying, duplication lists, report writing, and similar items.

Subjected services that are included in the fee schedule will be charged as per the schedule. Subjected services not included in the fee schedule will be charged at our normal fees. Pre-Dawn charges will be applied to projects outside a 50-mile radius of our offices. Mileage will be charged at the rate of 50 cents per mile for distances over 50 miles from the location of the project.

Invoices for all services completed or in progress will be submitted bi-monthly. These invoices are due in full upon presentation to the client. Invoices for projects over 30 days will be considered past due. A finance charge will be computed at the rate of 1.5 percent per month, which is an annual rate of 18 percent, and added on all past due accounts. If legal action is brought on delinquent accounts, the prevailing party shall be entitled to recover its reasonable attorney's fees and other costs of collection.

Our professional engineering, geology, and inspection services are performed in accordance with the current standards of practice in the industry. No further warranty or representation is implied or intended.

Should any services provided by SCS&I for this project become subject to state or federal prevailing wage requirements, SCS&I will be compensated for those services at prevailing wage rates, from the date these requirements become effective through completion of the project.

6280 Riverside Drive
San Diego, California 92120
619.301.4131, Toll Free 877.215.4131
www.sest.com

65030 Cahuilla Street
San Diego, California 92120
619.301.4131, Toll Free 877.215.4131
www.sest.com
AS OF THIS POINT

BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto
Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Recommend Award of RFP 124 Special Inspection, Material Testing, and Geotechnical Engineering Services to Southern California Soils and Testing, Inc. on the Replacement of DeVore Stadium/Field House and Central Plant Projects

RECOMMENDATION

Recommend award of RFP 124 for specialty inspection, material testing, and geotechnical engineering services to Southern California Soils and Testing, Inc. (So. Cal) for the period December 9, 2010 to December 20, 2011, in the amount of $18,000, and authorize the Superintendent/President to sign the agreement and any future amendments that may occur.

OVERVIEW

On November 12, 2010, the District requested cost proposals from a pool of shortlisted firms to provide special inspection, material testing, and geotechnical engineering services for the referenced project, and based on the proposals received, Southern California Soils and Testing, Inc. is the low bidder and is being recommended for award. Southern California Soils and Testing, Inc. will be asked to perform a geotechnical investigation to include various inspections, and to provide reports based on the results of their findings. These services will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $18,000 Cost to the District/Account Nos.: 5-45110-718724-970 (Central Plant Project – Proposition R Funds) 5-45110-718722-970 (Replacement of DeVore Stadium Field House – Proposition R Funds)

HA: vs
Southwestern Community College District
Proposition AA/R Bond Management Staff
Recommendation of Award of RFP 124

Governing Board Meeting Date: December 8, 2010
Recommend Award of RFP 124

Title of Bid: Recommend Award of RFP 124 Special Inspection, Material Testing, and Geotechnical Engineering Services to Southern California Soils and Testing, Inc. on the Replacement of DeVore Stadium/Field House and Central Plant Projects.

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Proposal</th>
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<tbody>
<tr>
<td>Southern California Soils and Testing, Inc.</td>
<td>$18,000</td>
</tr>
<tr>
<td>NOVA Engineering and Environmental, Inc.</td>
<td>$19,285</td>
</tr>
<tr>
<td>Construction Testing &amp; Engineering, Inc.</td>
<td>$19,650</td>
</tr>
<tr>
<td>Montana Testing and Geotechnical Laboratory, Inc.</td>
<td>$23,905</td>
</tr>
</tbody>
</table>

- Bolded text indicates recommended awarding firms.

Rejected Bids:
N/A

Henry Amigable, CCM
Bond Program Director
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: John R. Brown, P.E.
Director of Facilities, Operations, and Planning

SUBJECT: Ratification of Agreement with BRG Consulting, Inc.
Various Proposition R Projects

RECOMMENDATION

Recommend Ratification of Agreement No. A3107.10, related to RFP 127, with BRG Consulting, Inc., to obtain environmental clearance and entitlement per the California Environmental Quality Act (CEQA), for the period October 13, 2010 to December 31, 2011, inclusive, in an amount not to exceed $38,573.

RATIONALE FOR RATIFICATION

This ratification completes the action delayed due to the resignation of the former Superintendent/President and Vice President for Business and Financial Affairs.

OVERVIEW

The Governing Board previously approved the award of RFP 127 on October 13, 2010 and authorized the Superintendent/President to sign the agreement and any future amendments that may occur. Education Code section 81655 allows the District to delegate authority to staff to execute contracts in advance of final Board approval, so long as the contracts are ultimately reviewed and ratified/approved by the Board after they are executed. This ratification satisfies the Education Code.

The California Environmental Quality Act requires all public agencies to review the impact of specified actions on the environment. Staff did not have the professional expertise, nor capacity
to conduct the proper investigation, take required action, and prepare the required reports for the
Governing Board.

The contract with BRG Consulting, Inc. furnished an Initial Study to determine if the proposed
construction and operation of the Corner Lot, Central Plant, DeVore Stadium Improvements and
Field House projects and ancillary work that would have significant effect on the environment,
took public comment on the proposed action, and prepared a Draft Mitigated Negative
Declaration in accordance with the CEQA Code and the State CEQA Guidelines. These services
have been funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $38,573 Cost to the District/Account No:
5-46210-718741-970 (Corner Lot – Proposition R Funds)
5-46210-718734-970 (Central Plant – Proposition R Funds)
5-46210-718722-970 (DeVore Stadium Improvements and Field House – Proposition R Funds)

JRB:mk
AGREEMENT
For Planning and Environmental Services
for
Southwestern College Negative Declaration/Mitigated Negative
Declaration for the
Corner Lot & Central Plant/DeVore Stadium Projects

THIS AGREEMENT made and entered into this 13th day of October, 2010, by and between BRG
CONSULTING, Inc., referred to as “Consultant,” and SOUTHWESTERN COMMUNITY COLLEGE DISTRICT,
hereinafter referred to as “Client.”

WHEREAS, Consultant is specially trained and possesses certain skills, experience, education
and competency to perform specific professional services required by Client, and Client desires to retain
Consultant to perform these services.

NOW THEREFORE, subject to the terms hereinafter contained, the Client and the Consultant
agree as follows:

1. Scope of Work. The Consultant shall perform the services described in Exhibit A to this
agreement in accordance with the terms and conditions of this agreement.

2. Period of Performance. The Consultant may commence work on October 14, 2010 and
complete work by December 1, 2011 in compliance with Exhibit A.

3. Compensation and Payment. In consideration for the services rendered under this
agreement, Client shall pay the Consultant in accordance with the provisions specified in Exhibit B,
pursuant to the following conditions:

   a. Total compensation shall not exceed thirty eight thousand five hundred seventy
three and 09/100 dollars ($38,573.00), as stated in Exhibit B unless Client agrees to such additional
compensation in writing, with the exception of any additional services specified in Exhibit A that may
be provided by Consultant on an additional reimbursable basis, upon the request and authorization of Client.
Such authorization may be written or verbal, and shall be made exclusively by Client’s Authorized
Representative Nicholas Alioto, shall be Client’s Authorized Representative for the purpose of
this contract administration.

   b. All sums specified in Exhibit B to be paid as compensation to Consultant shall
become due and payable to Consultant upon Client’s receipt of Consultant’s monthly invoice. Client shall
use all due diligence to provide payment to Consultant in a timely manner, according, to the terms and
conditions described in Exhibit B.

4. Interpretation. This Agreement, together with the Exhibits attached hereto, and all
documents specifically referred to herein and made a part hereof shall constitute the entire agreement
between the parties, and no other proposals, conversations, bids, memoranda, or other matter shall vary,
alter, or interpret the terms hereof. The captions in this agreement are for the convenience of the parties
in identification of the several provisions and shall not constitute a part of this agreement nor be
considered interpretative thereof. Failure of either party to exercise any option, right or privilege under
this agreement or to demand compliance as to any obligation or covenant of the other party shall not
constitute a waiver of any such right, privilege or option, or of the performance thereof, unless waiver is expressly required in such event or is evidenced by a properly executed instrument.

5. Independent Contractor.
   a. Consultant shall be an independent contractor in all its activities hereunder. Consultant is not to be considered Client's employee for any purpose, including but not limited to, the accrual of any employee benefits. Consultant is not authorized to represent Client or otherwise bind Client in any dealings between Client and any third parties.
   b. Any employees furnished by Consultant to perform services hereunder shall be deemed to be Consultant's employees exclusively and shall be paid by Consultant for all services in this connection, including, but not limited to, the accrual of any employee benefits.
   c. The professional services of Consultant in connection with the work to be performed shall be under the general direction of Client's Authorized Representative and shall be limited to those described within the scope of this agreement. Client may direct Consultant as to what work is to be done, the sequence in which it is to be performed and a schedule indicating start dates and/or completion dates, but shall not be responsible for or direct the means whereby the work is to be accomplished.
   d. Consultant shall designate a representative who will be in charge of Consultant's work under this agreement. Consultant shall also designate a representative who is authorized to sign in the name of consultant all letters, reports and other documents relating to Consultant's professional services to be performed hereunder. Consultant's representative for the purpose of administering this agreement shall be Erich R. Lethers, unless and until Consultant designates a different representative in writing.

6. Subcontracts. Consultant shall not assign or subcontract any portion of the services required under this agreement without prior written authorization of the Client.

7. Termination. Client, with five days' written notice to Consultant, may terminate this agreement without cause at any time. Consultant may terminate this Agreement with five days' written notice to Client upon any breach of this agreement by Client, including the failure to pay timely compensation as provided in Section 3. Any termination shall be without prejudice to any claim which Client may have against Consultant or Consultant may have against Client. Client shall reimburse Consultant only for services performed to date of termination at rates in amounts provided for in this Agreement.

8. Indemnification. Each party shall indemnify, defend and hold the other harmless from and against any and all claims, actions, damages, demands, liabilities, costs and expenses, including reasonable attorney's fees and expenses, resulting from any negligent act or omission of the acting party or its agents or employees.

9. Warranty. Consultant warrants that the services to be rendered pursuant to this agreement shall be performed in accordance with the standards customarily provided by an experienced and competent professional rendering the same or similar services.

10. Insurance. Consultant shall place and maintain with responsible insurance carriers workers' compensation insurance in the statutory amounts, and standard general liability insurance. Consultant shall deliver to Client, upon request, certificates of insurance evidencing coverage in
accordance with this Section and by which the insurance carrier shall be obligated to give thirty (30) days' notice to Client in the event of cancellation.

11. Confidentiality. During the term of this Agreement, Consultant may have access to and may become acquainted with various trade secrets of Client. During the term of this Agreement and at any time thereafter, without prior written consent of Client, Consultant shall not publish, communicate, divulge, disclose or use any such information which has been designated as secret or confidential or which from the surrounding circumstances Consultant knows or has reason to believe is secret or confidential, provided that this Section shall not be deemed to prevent Consultant from disclosure of such information pursuant to court order, subpoena, or other requirement of law.

12. Ownership of Work Product. All of the work product of this agreement, and of the work performed by Consultant including, but not limited to, reports and all relevant data such as maps, diagrams, plans, designs, statistics, specifications and other supporting records or drawings compiled or prepared in the course of performance of the services required by this agreement shall be the property of the Client upon completion of this Agreement, provided Consultant may retain copies of said materials and information for Consultant's use and files. Documents and other records or materials prepared pursuant to this agreement shall be turned over to Client upon Client's request, either upon termination of this agreement or completion of the services authorized by this agreement.

13. Changes in the Work. The Client, without invalidating this agreement, may order changes within the general scope of the services described in Exhibit A by altering, adding to and/or deducting from the services to be performed. If any changes under this provision cause an increase or decrease in the Consultant's cost of, or time required for, the performance of any part of the work under this agreement, Consultant shall use the following procedure in obtaining approval for such change in the work:

   a. Prior to performing additional work, or making any change in the work, Consultant shall submit a completed Change Order Request in the form presented in Exhibit C to this agreement;

   b. Client shall review the written Change Order Request and shall either approve or disapprove the change in the work and in the compensation therefore;

   c. In the event that the Change is disapproved, then no change in the work whatsoever shall be performed thereon by Consultant; and,

   d. Consultant shall not be entitled to, and shall not receive any compensation whatsoever for changes in the work which are not authorized in writing pursuant to the procedures stated herein, with the exception of the specified additional reimbursable services described in Exhibit A, which may be authorized by Client's Authorized Representative, as described in Section 3 of this agreement.


   a. Consultant shall establish and make known to its employees appropriate safeguards to prohibit employees from using their positions for a purpose that is, or gives the appearance of being, motivated by desire for private gain for themselves or others, particularly those with whom they have family, business, or other relationships. Project personnel shall not accept gratuities or any other favors from sub-consultants or potential sub-consultants.

   b. Consultant shall likewise avoid any conflict of interest or the potential appearance of a conflict of interest between Consultant's work for other clients and Consultant's work for Client for the
duration of this agreement. Consultant shall promptly notify Client in the event that circumstances occur, known to the Consultant, which place Client and Consultant’s new client in adverse, hostile, or incompatible positions wherein the interests of Client may be jeopardized. In such event, Consultant shall meet and confer with Client to agree upon modifications of its relationship with Client or said new client in order to continue to perform services for Client and/or said new client without compromising the interests of either. Should no agreement regarding modification be reached, either Client or Consultant may terminate this agreement with Consultant.

15. Records. At any time during normal business hours and as often as Client may deem necessary, the Consultant shall make available to a representative of Client for examination all of its records with respect to all matters covered by this agreement and will permit Client to audit, examine and/or reproduce such records. Consultant will retain such financial and program service delivery records for at least one (1) year after termination or final payment under this agreement.

16. Equal Employment Opportunity. Consultant certifies to maintain its affirmative action employment program for the duration of this agreement.

17. Index of Exhibits. The following Exhibits are incorporated herein and made a part hereof:

Exhibit A Statement of Work
Exhibit B Compensation and Payment Provisions
Exhibit C Request for Change in Work

18. Severability. If any provision of this agreement is or becomes or is deemed invalid, illegal or unenforceable in any jurisdiction, such provision shall be deemed amended to conform to applicable laws so as to be valid and enforceable or, if it cannot be so amended, without materially altering the intention of the parties, it shall be stricken and the remainder of this agreement shall remain in full force and effect.

19. Governing Law. This agreement shall be deemed to have been entered into and shall be construed by and enforced in accordance with the laws of the State of California.

20. Notices. Notices required or permitted hereunder shall be in writing and shall be sent to the last known address of the party to which such notice is sent, or to such other addresses as the parties may hereafter specify, and shall be deemed given:

a. When delivered to a party; or,
b. Three (3) days after mailing by prepaid first class mail.

21. Counterparts. This agreement may be executed in any number of counterparts, each of which shall be an original, and all of which constitute together but one and the same document.

22. Binding Effect. This agreement shall be binding upon any assignee and, subject to the restrictions on assignment, if any, herein set forth, inure to the benefit of the successors and assigns of the parties hereto.

23. Entire Agreement. The terms of this agreement are intended by the parties as a final expression of their agreement with respect to such terms as are included in this agreement and may not be contradicted by evidence of any prior or contemporaneous agreement. The parties further intend that this agreement constitutes the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever may be introduced in any judicial proceeding, if any, involving this agreement.
24. Modifications and Amendments. This agreement may not be modified, changed or supplemented, nor may any obligations hereunder be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein.

25. Third Party Rights. The parties do not intend to confer any benefit hereunder on any person, firm or corporation other than the parties hereto.

26. Waivers and Extensions. No waiver of any breach of any agreement or provision herein contained shall be deemed a waiver of any preceding or succeeding breach thereof or of any other agreement or provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

27. Attorney's Fees. Should either party institute any action or proceeding, to enforce this agreement or any provision hereof, or for damages by reason of any alleged breach of this agreement or of any provision hereof, or for a declaration of rights hereunder, the prevailing party in any such action or proceeding shall be entitled to receive from the other party all costs and expenses, including reasonable attorney's fees.

28. Arbitration. Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled by binding arbitration before a single arbitrator in San Diego, California, in accordance with the rules then in effect of the American Arbitration Association, and judgment rendered upon the award may be entered in any court having jurisdiction thereof. Notwithstanding the provisions of this section, either party may, either before or after the commencement of arbitration proceedings, seek urgent interlocutory relief from the courts.

IN WITNESS WHEREOF, the parties have caused this agreement to be duly executed:

BRG CONSULTING, INC.

Name: Erich R. Lethers
Title: President

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

Name: Rai K. Choora, Ph.D.
Title: Superintendent/President

Date: 10-25-10

Date: 10-19-10

[Approval information]

Originator: Nicholas C.A. Allota, CPA, Vice President for Business & Financial Affairs

Account Nos.:
5-45110-71871-970 (Corner Lot Project – Proposition R Funds)
5-45110-71873-970 (Central Plant Project – Proposition R Funds)
5-45110-718722-970 (Replacement of DeVora Stadium Field House – Proposition R Funds)
EXHIBIT A

STATEMENT OF WORK

PROJECT APPROACH

Project Initiation and Coordination
This task will involve initiation of the environmental review of the project. Under this task, BRG will coordinate with the client, project architect, and subconsultants to obtain specific data (e.g., project site plan and topo map), identify informational needs, initiate technical reports and prepare the project description. BRG will conduct a site visit to ascertain the existing conditions of the site and will collect relevant available data. This task will also involve overall management and coordination of the technical work conducted in Phase I.

Initial Study/Negative Declaration/Mitigated Negative Declaration
BRG will prepare a Screech sheet Initial Study (IS) for review by Southwestern College. The purpose of this task is to ensure that all aspects of the proposed project have been addressed and that technical studies accurately evaluate potential project impacts. The IS will address all topics identified in CEQA Guidelines Appendix G, and where technical studies are prepared, BRG will incorporate information from the technical studies. Mitigation measures will be proposed where significant impacts are identified. The IS will be submitted to Southwestern College for review and comment.

Based on Southwestern College review of the IS, BRG will revise the IS, and prepare a public review draft IS/ND/MND. We will also prepare a ND/MND form. This document, and the Notice of Intent to Adopt an ND/MND (NOI), will be submitted to Southwestern College for concurrence. BRG would be responsible for distribution of the IS/ND/MND for public review and for publication of the NOI in a local newspaper. BRG will provide review copies to the State Clearinghouse in order to ensure a State Clearinghouse Number is assigned to the IS/ND/MND.

Final Initial Study/Negative Declaration/Mitigated Negative Declaration
BRG will assign numbers to each comment received on the IS/ND/MND and assign a team member to respond to each comment. We will assemble and review all responses prepared and make any necessary revisions to the IS/ND/MND. We will provide this document to Southwestern College for review and comment and incorporate any necessary revisions.

Mitigation Monitoring and Reporting Program
In the event mitigation measures are identified during the environmental review process, BRG will prepare a Mitigation Monitoring and Reporting Program that will have to be adopted by your Board when they adopt the ND/MND.

Notice of Determination
BRG will prepare the required NOE, and file the NOE with the County Clerk, and State Clearing House as required. BRG will prepare a Fish and Game de minimis exemption since we do not expect there to be any biology issues associated with the project. BRG assumes Southwestern College will pay Fish and Game fees if they are necessary.

Meetings and Hearings
We have budgeted 36 hours for meetings and a hearing before your Board to adopt the ND/MND.
Technical Reports

BRG has reviewed the project site and the environmental documentation that has previously been completed by the College and City of Chula Vista, to determine the technical analysis that would be required for this project. The following information was used to determine the need for technical reports to be prepared under subcontract to BRG for this project:

Traffic Analysis - BRG has reviewed the Southwestern College Educational and Facilities Master Plan (2008) for which these projects are included. The Master Plan notes that the project is intended for the modernization of the existing facilities and services, and that no expansion in student population is proposed. Furthermore, in 2010, the District dedicated land along the project site frontage to the City of Chula Vista for the Otay Lakes Road Widening Project, which is currently underway, to ensure that any development on the site would not impact traffic and circulation. Therefore, BRG recommends that a traffic analysis is not warranted for the proposed project.

Biological Resource - The Corner Lot is the only undeveloped portion of the Southwestern College campus. BRG reviewed historic aerials, spoke with the City of Chula Vista CIP Project Manager for the Otay Lakes Road Widening Project, and in conjunction with the Roch's Biological Services, reviewed the current disturbance on this property to determine if technical review is necessary. Due to ongoing use and maintenance of this property by Southwestern College, BRG recommends that the site is completely disturbed and no further technical review is necessary. However, it is recommended that if the College needs to clear mature trees during the nesting season (September to March), then pre-construction surveys for nesting migratory birds should be completed.

Archaeological/Historical Resources - BRG completed the MND for the Southwestern College Child Development Center in 2000. As part of this project, a cultural resources records search and survey were performed by ASM Affiliates, identifying the potential for the presence of cultural resources within the Child Development Center project site and surrounding area. BRG proposes that a survey and updated records search be performed for the proposed project to determine if any mitigation for the project would be required. Additionally, due to the trenching proposed related to the Central Plant, BRG and ASM are proposing construction monitoring as mitigation for any potential impacts from the placement of the heating and cooling system.

Climate Change/GHG - Climate Change, or greenhouse gas emissions review, was incorporated into the California Environmental Quality Act in 2009. BRG, in coordination with Rincon Consulting, is proposing a quantitative review of the potential greenhouse gas emissions associated with the construction and operation of the project. It is believed that the District's use of LEED Platinum and Gold certified methods of construction and operation, as well as the limited grading required for construction of the project, will result in limited effects on the environment related to GHG.
CEQA APPENDIX C:
ENVIRONMENTAL CHECKLIST FORM

1. Project Title: ____________________________________________
2. Lead agency name and address: ________________________________
3. Contact person and phone number: ____________________________
4. Project location: __________________________________________
5. Project sponsor’s name and address: __________________________
6. General plan designation: __________________________________
7. Zoning: __________________________
8. Description of project: (Describe the whole action involved, including but not limited to later stages of the project, and any ancillary support, or off-site features necessary for its implementation. Attach additional sheets if necessary.)

9. Surrounding land uses and setting: Briefly describe the project’s surroundings:

10. Other public agencies whose approval is required (e.g., permits, financing approval, or interagency agreement):

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is a "Potentially Significant Impact" as indicated by the Mythology on the following pages:

- [ ] Aesthetics
- [ ] Agriculture Resources
- [ ] Air Quality
- [ ] Biological Resources
- [ ] Cultural Resources
- [ ] Geology / Geotechnics
- [ ] Hazards & Hazardous Materials
- [ ] Hydrology / Water Quality
- [ ] Land Use / Planning

DETERMINATION: (To be completed by the Lead Agency)

On the basis of this initial evaluation:

☐ I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

☐ I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because revisions in the project have been made or approved by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☐ I find that the proposed project MAY have a significant impact on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐ I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect (1) has been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

☐ I find that although the proposed project could have a significant effect on the environment, because all potentially significant effects (1) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (2) have been avoided or mitigated pursuant to that earlier EIR or NEGATIVE DECLARATION, including relevant or mitigation measures that are imposed upon the proposed project, nothing further is required.

________________________________________
Signature

________________________________________
Printed Name

EVALUATION OF ENVIRONMENTAL IMPACTS:
1) A detailed explanation is required for all answers except "No impact" where the answer is adequately supported by the information contained in the Appendices following each category. A "no impact" answer is adequately supported if the respondent answers "no" to the question that is asked or omitted. If the answer applies to the project, the respondent shall indicate this in the answer. A "no impact" answer should be explained when it is based on project-specific factors as well as general standards (e.g., the project will not expose...
EXHIBIT B

COMPENSATION AND PAYMENT PROVISIONS

Consultant shall perform the requested services described in Exhibit A, for a not-to-exceed fee of Thirty Eight Thousand Five Hundred Seventy-Three Dollars ($38,573.00), according to the attached cost proposal.

Consultant shall submit monthly progress invoices for costs incurred during the preceding 30 days. Invoices are payable within 30 days from receipt. Consultant’s invoices shall indicate the work accomplished for the period addressed by the invoice.
### Cost Proposal

Southwestern Community College District RFQ No. 127  
Corner Lot and Central Plant/Devore Stadium

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### Subcontract Total

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<td>C. Contractors (Subcontractors)</td>
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### High Labor Cost Items

- Site Inspection/Review
- Project Discipline
- Final Drawings
- Final Documents
- Notice of Determination

*Note: BSG has made assumptions with regards to labor cost for the RFQ. Should more than five (5) letters of consent, or any letter of agreement, requests or changes be needed under the "Plan Agreement" standard under CEC, the hourly rates are highly technical and may not total as indicated. The number of changes is expected to be minimal.

BSG Consulting, Inc
EXHIBIT C

REQUEST FOR CHANGE IN WORK

Change Order No. ______

Consultant requests approval of the following described change in the work to be performed under the agreement between Consultant and Client dated ____________________.

DESCRIPTION OF CHANGE

Increase in compensation resulting from change $___________

Original Contract Amount $___________

Total project compensation resulting from change $___________

__________________________
BRG CONSULTING, INC.

Date

By: _______________________

The described change is: APPROVED

DISAPPROVED

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

Date

By: _______________________
AS OF THIS POINT
BACK-UP MATERIALS ONLY
MEMORANDUM

TO: Members of the Governing Board
   Southwestern Community College District

APPROVED BY: Raj K. Chopra, Ph.D.
   Superintendent/President

SUBMITTED BY: Nicholas C.A. Alioto, CPA
   Vice President for Business and Financial Affairs

INITIATED BY: Henry Amigable, CCM
   Bond Program Director, Seville Construction Services, Inc.

SUBJECT: Award of RFQ 127 California Environmental Quality Act (CEQA)

RECOMMENDATION

Recommend award of RFQ 127 for professional services to BRG Consulting, Inc., to obtain environmental clearance and entitlement for the Corner Lot and Central Plant/DeVore Stadium projects, in the amount of $38,573, and authorize the Superintendent/President to sign the agreement and any future amendments that may occur.

OVERVIEW

The District will be constructing six buildings and a parking complex on the corner lot of Otay Lakes Road and H Street. In addition, the District intends to begin the construction of a new central plant, field house, and DeVore Stadium improvements at the Chula Vista campus. The District is required to conduct a California Environmental Quality Act (CEQA) initial study for potential traffic, noise, and greenhouse gases resulting from the proposed projects. Upon completion of the study, a Notice of Determination will be filed in accordance with CEQA.

The District issued a Request for Qualifications No. 127 for this study to provide environmental review and to file a mitigated negative declaration. Three firms were interviewed and based on their qualifications; BRG Consulting, Inc. is being recommended to perform the study. These services will be funded by Proposition R.

FISCAL IMPACT/ACCOUNT

NTE $38,573 Cost to the District/Account Nos.:  
5-45110-718741-970 (Corner Lot Project - Proposition R Funds)  
5-45123-718734-970 (Central Plant Project - Proposition R Funds)  
5-45123-718722-970 (Replacement of DeVore Stadium Field House - Proposition R Funds)

HA: vs
Title of Bid: Recommend Award of RFQ 127 California Environmental Quality Act (CEQA)

<table>
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<td>RB6 Consulting</td>
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<td>Dudek</td>
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- Bolded text indicates recommended awarding firms.

Rejected Bids:
N/A

On September 9, 2010, the District received a total of three qualifications packages from interested environmental firms to provide the professional services to obtain environmental clearance and entitlement for the Corner Lot and Central Plant/DeVore Stadium projects.

On September 16, the firms listed above were invited for interview and based on their performance and qualifications, BRG Consulting, Inc. is being recommended for award. These services will be funded by Proposition R.

Henry Arnegable, CCM
Bond Program Director
ITEM #26B27
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: Gunnar Schalin
Program Director, San Diego Contracting Opportunities Center

SUBJECT: Ratification of Agreement with ByteSolutions, Inc.
dba Bytes, Inc.

RECOMMENDATION

Recommend Ratification of Agreement No. A3239.11 with ByteSolutions, Inc. (dba Bytes, Inc.)
for the development of a mobile phone application, the period April 1 to June 30, 2011,
inclusive, in an amount not to exceed $30,000.

RATIONALE FOR RATIFICATION

The task order for a new project under contract (AR 2670.09) with the San Diego County Water
Authority was received March 10, 2011 with a period of performance of April 1 through June 30,
2011. Documents are being presented to the Governing Board at the first opportunity.

OVERVIEW

The San Diego Contracting Opportunities Center, through Southwestern College's Office of
Business and Financial Affairs, manages the small business training program for the San Diego
County Water Authority. ByteSolutions, Inc. will assist in providing services on a new task
order under Agreement AR 2670.09 that requests development of a mobile phone application
that notifies small business of upcoming contracting opportunities with various public agencies.

FISCAL IMPACT/ACCOUNT

$30,000 Cost to the District/Account No. 1-45110-709956-928 (Project Funds)

GS:jr:lh
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
Independent Contractor Agreement
(For short or long term contracts with a value of $3,001 and over)

WHEREAS, it is the desire of the Governing Board of the Southwestern Community College District (hereinafter referred to as "College District" or "Client") to contract with Bytesolutions, Inc. (dba Bytes, Inc.) as an Independent Contractor (hereinafter referred to as "Contractor" or "Engineer"); and whereas such service will assist the Governing Board in discharging its legal obligation to provide an adequate educational program; and whereas Government Code section 53060 authorizes the Governing Board to enter into contracts to obtain special services and advice in financial, economic, accounting, engineering, legal or administrative matters for the College District; and

WHEREAS, Contractor has represented to the Governing Board that Contractor is knowledgeable and qualified in skills required for this project and covenants that Contractor is capable of performing the services required under this agreement; and

WHEREAS, the Governing Board recognizes that Contractor is acting as an independent contractor in the performance of work under this contract, and that Contractor, to the extent required by law, shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of work under this contract; and

WHEREAS, Contractor understands that, for purposes of this Agreement, Contractor is not an employee of the College District and does not qualify for employee benefits, including workers' compensation benefits;

NOW THEREFORE, the following is agreed:

I. SERVICES AND WORK PRODUCT(S) TO BE RENDERED BY THE INDEPENDENT CONTRACTOR.

Contractor agrees to undertake, carry out and complete for the Governing Board, in a satisfactory and competent manner, the following services:

Create mobile phone applications, as follows:

1.1 Development
Develop, test, deliver and deploy software for mobile phone applications to distribute contracting opportunities and/or other data such as training opportunities, calendar of events, etc. from the San Diego County Water Authority's (and possibly various other public agencies) website to mobile smartphone operating systems (OS), which may include:

- Apple iOS version 4.2.1 and above, and/or
Blackberry OS version 5.0 and above, and/or
Android OS version 1.6 and above.

Each application shall consist of:
- A graphic icon that launches the application when touched.
- Various sections, which may include: Public Agency, Project Name, Project
  Value/Contract Amount, Advertising Date, and Contact Info (name,
  clickable email and clickable phone number).
- A graphical user interface to be displayed on users' phones upon launch of
  the application.
- Options to be alerted of only certain notifications, which may include
  specific agencies, contracting opportunities, and/or dollar values. For
  example, the application may include functionality that allows a public
  works construction contractor to select that they only want to be alerted
  of new construction opportunities that are more than $1 million with only
  SDCWA and SDUSD. Default position of the app shall be all contracting
  opportunities with all agencies.

Create three (3) layout designs. The College District will choose one (1) to be
developed.

Upon launch, the mobile application may show Agency Name, and/or Project
Name, and/or Project Value and/or Contract Amount, and/or Advertising Date,
and/or Contact Info (perhaps among others, with one being the featured item)
sections in timeline or tab view, with the most recent item(s) listed first (on left
or top of screen). The top item from the most recent RSS (or other technology) feed
of original content shall be highlighted and be more prominent than others.

When new content (contracting opportunities) is developed or becomes available,
it shall be "pushed" and/or "pulled" to the application (via RSS or other technology).
Depending on if content/news is "pushed" and/or "pulled", a notification shall
appear in the status bar (top) of users' phones (similar to the updates that are sent
to a user's phone when a new email, text, or voicemail message is available for
them to retrieve).

1.2 Application Delivery & Deployment
Provide all the source code and compiled executables to the College District.
Under the provisions of a separate contract between the College District and the
San Diego County Water Authority (AR2670.09), the San Diego County Water
Authority will have unlimited use of and access to the source code. Make on-site
installation of the application onto an infrastructure specified by the College
District in coordination with the San Diego County Water Authority's Information
Technology staff. Test the application on all platforms, as applicable, once
installed on the specified infrastructure.
Assist the College District, in coordination with San Diego County Water Authority technical staff, in making the application available for the public's use. This includes necessary assistance with any required registration onto platform vendors' website application stores, meeting all platform vendor criteria for successfully deploying a mobile application, uploading of executables to platform vendors' website application stores, and uploading of executables to the specified website.

Provide training and knowledge transfer on the administration, deployment, and maintenance of the application. Provide documentation for the application including in-code documentation, administration documentation, application development specifications, mobile hardware requirements to run the application (e.g. OS versions), and hardware requirements to compile and develop the application (e.g. OS versions, emulators, programming language versions, development environments).

1.3 Final Approval
The application must pass final review and functionality testing specified by the College District, including the refreshing of the application with new content. The College District will also test that for each platform, to assure that the application can be easily downloaded, installed, and function properly. Upon full review, the College District will notify the Contractor of any bugs, deficiencies or shortcomings in the application and the Contractor will resolve those issues and redeploy the application. The College District will then provide a final approval/signoff.

After approval, each application shall have a QR code assigned to it that shall be used on all marketing and outreach materials and websites to promote the applications and make it easier to download, on-the-go, at small business networking events, forums, and trainings.

1.4 Product Warranty
All mobile phone applications shall carry a 60-day warranty from date of delivery and acceptance by the College District for any necessary fixes. The College District will submit all required fixes during the warranty period to the Contractor in writing.

1.5 Analytics
Provide analytics for all applications. Analytics categories may include, but not be limited to: total number of application users (downloads from markets), length of time each user spends deploying each application, and/or types of contracting opportunities users access (business segment, contract dollar values, agencies accessed). The College District may, at its sole discretion, change the type of analytics it would like reported.
II. COMPENSATION, MAXIMUM COST, AND PAYMENT.

(a) In consideration of the service to be rendered by Contractor as outlined in this agreement, the Governing Board agrees to pay Contractor a total amount not to exceed $30,000 for services and product delivery and subsequent receipt of invoice for services rendered and products delivered by Contractor.

(b) Invoice shall be processed within thirty (30) days upon receipt and approval by Southwestern Community College District of an invoice, in triplicate, showing services rendered for the period covered by the invoice.

(c) All invoices submitted must contain the following certification statement: “I certify that payment requested is for appropriate purposes and in accordance with the provisions of the Contract.” All invoices must be signed by Contractor’s Chief Financial Officer or designee.

(d) Contractor certifies that Contractor has not and will not receive pay for the same services or days of service by any other public agency.

(e) District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing services for College District, unless otherwise specifically stated in this Contract.

III. PERIOD OF PERFORMANCE.

This period covered by this agreement shall begin on April 1, 2011 and shall terminate on June 30, 2011.

IV. CONFLICT OF INTEREST.

If the College District determines that Contractor is a "Consultant" under Political Reform Act of 1974, Contractor shall comply with all applicable Conflict of Interest laws, including the filing of a Statement of Economic Interest, pursuant to the District's Conflict Code, under a disclosure category or categories as determined by the District's Superintendent/President.

V. INDEPENDENT CONTRACTOR.

Contractor, in the performance of this Contract, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the College District, and are not entitled to benefits of any kind or nature normally provided employees of the College District and/or to which College District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor assumes
the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the service to be provided under this Contract.

VI. TAXES.

Contractor acknowledges and agrees that it is the sole responsibility of Contractor to report as income its compensation received from College District and to make the requisite tax filings and payments to the appropriate federal, state or local tax authority. No part of Contractor’s compensation shall be subject to withholding by College District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.

VII. MATERIALS.

Contractor shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Contract unless otherwise specifically stated in the Contract. Contractor’s services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession.

VIII. AUDIT AND INSPECTION OF RECORDS.

At any time during the normal business hours and as often as College District may deem necessary, Contractor shall make available to College District for examination at College District’s place of business as specified herein, all data, records, investigation reports and all other materials respecting matters covered by this Contract and Contractor will permit the College District to audit, and to make audits of all invoices, materials, payrolls, records of personnel and other data related to all matters covered by this Contract.

IX. CONFIDENTIALITY AND USE OF INFORMATION.

(a) Contractor shall hold in trust for the College District, and shall not disclose to any person, any confidential information. Confidential information is information which is related to the College District’s research, development, trade secrets and business affairs; but does not include information which is generally known or easily ascertainable by nonparties through available public documentation.

(b) Contractor shall advise the College District of any and all materials used, or recommended for use by consultant to achieve the project goals, that are subject to any copyright restrictions or requirements. In the event Contractor shall fail to so advise the College District and as a result of the use of any programs or materials developed by Contractor under this
Contract the College District should be found in violation of any copyright restrictions or requirements, or the College District should be alleged to be in violation of any copyright restrictions or requirements, Contractor agrees to indemnify, defend and hold harmless, College District against any action or claim brought by the copyright holder.

X. EQUAL OPPORTUNITY/ NON-DISCRIMINATION.

Contractor shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment; or discriminate in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual’s race, color, religion, sex, national origin, age, disability, medical condition, or marital status.

Contractor shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin. Contractor shall comply with the Americans with Disabilities Act and the Rehabilitation Act of 1973, as amended.

XI. HOLD HARMLESS.

Contractor agrees to indemnify, but shall have no obligations to, defend the College District, its officers employees from liability or damages any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies to the extent actually caused by with the negligent performance of this Contract, and liability for damages, accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the Contractor to the extent actually caused by the negligent performance of this Contract. The College District agrees to indemnify, defend and hold harmless Contractor from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts of omissions or the College District in the negligent performance of this Contract.

XII. TERMINATION.

The College District or the Contractor may, at any time, with or without reason, terminate this Contract upon the giving of thirty (30) days prior written notice to the other party. In the event of termination, the Contractor shall be entitled to payment only for acceptable and allowable work performed under this Contract through the date of termination. Written notice by the College District shall be sufficient to stop further performance of services by Contractor. Notice shall be
deemed given when received by Contractor or not later than five (5) days after the day of mailing, whichever is sooner.

College District may also terminate this Contract upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this Contract by the Contractor; (b) any act by Contractor exposing the College District to liability to others for personal injury or property damage; or (c) if Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency. Written notice by College District of termination for cause shall contain the reasons for such intention to terminate and unless within ten (10) days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) days cease and terminate. In the event of such termination, the College District may secure the required services from another contractor. If the cost to the College District of obtaining the services from another contractor exceeds the cost of providing the service pursuant to this Contract, the excess cost shall be charged to and collected from the Contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to College District. Written notice by District shall be deemed given when received by the other party, or no later than five (5) days after the day of mailing, whichever is sooner.

XIII. INSURANCE

Contractor agrees to carry a comprehensive or commercial general liability insurance with limits of one-million dollars ($1,000,000) per occurrence and $2,000,000 aggregate combined single limit for bodily injury and property damage in a form mutually acceptable to both parties to protect Contractor and College District against liability or claims of liability which may arise out of this Contract. In addition, Contractor agrees to provide an endorsement to this policy stating, "Such insurance as is afforded by this policy shall be primary, and any insurance carried by College District shall be excess and noncontributory." Prior to commencing the performance of services hereunder, Contractor shall provide College District with certificates of insurance evidencing all coverages and endorsements required hereunder including a thirty (30) day written notice of cancellation or reduction in coverage. Contractor agrees to name College District and its officers, agents and employees as additional insureds under said policy.
XIV. WORKER'S COMPENSATION INSURANCE.

Contractor agrees to procure and maintain in full force and effect Worker's Compensation Insurance covering its employees and agents while these persons are participating in the activities hereunder. In the event a claim under the provisions of the California Workers' Compensation Act is filed against College District by a bona fide employee of Contractor participating under this Contract, Contractor agrees to defend and hold harmless the College District from such claim.

XV. ORIGINALITY.

Contractor agrees that all material produced by the Contractor and delivered to Southwestern Community College District hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless the Governing Board from any costs, expenses and damages resulting from any breach of this representation.

XVI. WORKS FOR HIRE.

Contractor understands and agrees that all matters produced under this Contract shall be works for hire and shall become the sole property of College District and cannot be used without College District's express written permission. College District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the College District.

Contractor consents to use of Contractor name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

XVII. RIGHTS IN DATA.

Contractor grants to the Governing Board the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this Contract.
XVIII. COMPLIANCE WITH APPLICABLE LAWS.

The service completed herein must meet the approval of the College District and shall be subject to the College District's general right of inspection to secure the satisfactory completion thereof. Contractor agrees to comply with all federal, state and local laws, rules, regulations, and ordinances that are now or may in the future become applicable to Contractor, Contractor's business, equipment and personnel engaged in operations covered by this Contract or accruing out of the performance of such operations.

XIX. PERMITS/LICENSES.

Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this Contract.

XX. NON-WAIVER.

The failure of College District or Contractor to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Contract shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

XXI. SEVERABILITY.

If any term, condition or provision of this Contract is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will nevertheless continue in full force and effect and shall not be affected, impaired or invalidated in any way.

XXII. ASSIGNMENT.

This Contract is not assignable by Contractor either in whole or in part, nor shall the Contractor further contract for the performance of any of its obligations hereunder, without the prior written consent of the Governing Board.

XXIII. LAWS GOVERNING.

This Contract shall be governed by and construed in accordance with the laws of the State of California.
XXIV. ENTIRE AGREEMENT/MODIFICATION.

This Contract and the Attachments hereto contain the entire agreement of the parties, and no representation, provision, warranty, term, condition, promise, duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Contract shall be binding or enforceable unless in writing and signed by each of the parties.

XXV. NOTICES.

All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if personally served or if sent by registered mail addressed to the parties at their address indicated in this Contract.

This Contract is entered into this 13th day of April 2011.

IN WITNESS WHEREOF, the parties have executed this Contract as of the date thereof.

ByteSolutions, Inc. (dba Bytes, Inc.)

Name: ByteSolutions, Inc. (dba Bytes, Inc.)
SS#/Federal Tax ID: 770368310
Address: 11152 Corte Pleno Verano, Suite 1
City/State/Zip: San Diego, CA 92130-2688
Telephone: 619-933-3366
Fax: 619-568-3666
Are you a District employee? □ Yes  ☑ No
Is a Credential or Special License required for this consultancy? □ Yes  ☑ No
If yes, please specify and attach a copy of current License. _______________________  

Signature: _______________________
Date: _______________________

Southwestern Community College District

Denise Whittaker
Interim Superintendent/President
900 Otay Lakes Road
Chula Vista, CA 91910-7299
Telephone: 619 482-6301/Fax: 619 482-6413

Signature: _______________________
Date: _______________________

Originator: Robert J. Temple, Interim Vice President for Business and Financial Affairs
Account No.: 1-45110-709956-928

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No.: 43239.11
Date: 4/17/11
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Mark Meadows, Ph.D.
Vice President for Academic Affairs

INITIATED BY: Christine M. Perri, RDH, MA
Dean, Higher Education Center at National City and Crown Cove
Aquatic Center

SUBJECT: Agreement with County of San Diego, The Knowledge Center

RECOMMENDATION

Approve Agreement No. A3224.11 with the County of San Diego, The Knowledge Center, to serve as a Community Training Center for the period July 1, 2011 to June 30, 2012, inclusive, in a reimbursable amount not exceed $4,000.

OVERVIEW

This agreement designates Southwestern College to provide First Aid training, Adult, Child and Infant Cardio Pulmonary Resuscitation and Automated External Defibrillation training leading to certification for laypersons in accordance with the American Heart Association guidelines.

FISCAL IMPACT/ACCOUNT

NTE $4,000 Cost to the District (reimbursable)/Account No. 1-38835-701100-934

CMP/ahl
County of San Diego, Health and Human Services Agency, The Knowledge Center (HHSA TKC)
And
Southwestern Community College District (Contractor)
Exhibit A-Statement of Work For:
CPR Adult, Child & Infant and AED Certification Class (Layperson)
July 1, 2011 – June 30, 2012

KEY SCOPE OF WORK ELEMENTS:

A. Scope of Work/Purpose: Contractor shall provide HHSA (Heartsaver) Adult, Child Infant CPR and AED training leading to certification for laypersons in accordance to the American Heart Association guidelines.

B. Outcome Objectives: All participants pass the requirements necessary to obtain a certified CPR card. Students should be able to pass all requirements as set by the American Heart Association.

C. Target Population: HHSA staff and other county employees.
Minimum enrollment: 22 Participants per class session.

D. Training Dates and Locations: All classes will be held at 5201 Ruffin Road, Suite G San Diego CA 92123. All classes will be from 8:00am - 5:00pm

- July 11, 2011
- August 22, 2011
- September 12, 2011
- October 17, 2011
- November 14, 2011
- December 12, 2011
- January 16, 2012
- February 13, 2012
- March 12, 2012
- April 16, 2012
- May 14, 2012
- June 11, 2012
- Other times and sites upon mutual agreement (i.e. referrals)

E. Contract Hours: 8 hours per class (Instructor is present at 8:00am; class officially begins at 8:15am)

F. Contract Amount: HHSA The Knowledge Center will reimburse Contractor for Teaching Assistant costs at $17 per hour, in an amount not to exceed $4,000. When an assistant is not available there is no charge to the District. Number of instructors will depend on student to instructor ratio as outlined in the American Heart Association curriculum. Contractor will provide a main instructor (salary at $17 per hour, paid by the contractor), manikins and AED trainers. HHSA TKC will also pay $6.00 for each BLS card per student. HHSA TKC will use their credit card to facilitate payments.
If students wish to purchase class related materials through instructor, this is acceptable. Contractor agrees to give students other options on where said materials can be purchased.

G. Conditions Prerequisite To Payments. County may elect not to make a particular payment if any of the following exists:

9.1 Misrepresentation. Contractor, with or without knowledge, made any misrepresentation of substantial and material nature with respect to any information furnished to County.

9.2 Unauthorized Actions by Contractor. Contractor took any action pertaining to this Agreement, which required County approval, without having first received said County approval.

9.3 Default. Contractor was in default under any terms and conditions of this Agreement.

9.4 Fees for Service. Contractor shall not implement a schedule of fees to be charged to clients or third party client representatives without prior County approval.

H. Withholding Of Payment. County may withhold reimbursement until reports, data, audits, or other information required for Agreement administration or to meet County or State reporting or auditing requirements are received and approved by COTR or designee. County may also withhold payment if, in County's opinion, Contractor is in noncompliance with this Agreement.

I. Disentanglement - This contract ends June 30, 2012 and can be renewed upon mutual agreement. Should Southwestern College and HHISA, The Knowledge Center terminate their relationship, Southwestern agrees to purchase the Heartsaver and BLS for the Healthcare Providers manuals at half price if the books are still current. They will also purchase the remaining manikin supplies, face shields, videos, and disposable gloves at half price.

J. Mutual Indemnification Clause: Each Party to this Agreement shall indemnify, defend, and hold harmless the other party and its officers, agents, and employees against any and all claims, losses, damages, liabilities, and related expenses (including attorney fees), arising out of the performance of this Agreement, except that each party shall bear any liabilities or expenses arising in whole or in part from its own negligent acts or omissions or those of its officers, agents, and employees.
County of San Diego, Health and Human Services Agency, The Knowledge Center
(HHSA TKC)
And
Southwestern Community College District (Contractor)
Exhibit B-Statement of Work For:
CPR Renewal for Healthcare Provider
July 1, 2011 – June 30, 2012

KEY SOW ELEMENTS

A. Scope of Work/Purpose: Contractor shall provide Adult, Child and Infant CPR and AED
   Adults and Pediatrics Certification for healthcare in accordance to the American Heart
   Association guidelines.

B. Outcome Objectives: All participants pass the requirements necessary to obtain a
   certified CPR card. Students should be able to pass all requirements as set by the
   American Heart Association.

C. Target Population: HHSA staff and other county employees.
   Minimum enrollment: 22 Participants per class session.

D. Training Dates and Locations: All classes will be held at 5201 Ruffin Road, Suite G
   San Diego CA 92123. All classes will be from 8:00am -12:00pm

   - July 12, 2011
   - August 23, 2011
   - September 13, 2011
   - October 18, 2011
   - November 15, 2011
   - December 13, 2011
   - January 17, 2012
   - February 14, 2012
   - March 13, 2012
   - April 17, 2012
   - May 15, 2012
   - June 12, 2012
   - Other times and sites upon mutual agreement (i.e. referrals)

   The Knowledge Center is to provide to trainer:
   Sign-in sheet, class evaluation forms, and gloves, copies of dittos, door sign,
   pens/pencils, and books and face shields.

   Contractor will provide:
   Manikins, AED’s BVM’s

E. Contract Hours: 4 hours per class (8am – 12pm: Instructor is present at 8am; class
   officially begins at 8:15am)
F. **Contract Amount:** HHSA The Knowledge Center will reimburse Contractor for Teaching Assistant costs at $17 per hour, in an amount not to exceed $4,000. When an assistant is not available there is no charge to the District. Number of instructors will depend on student to instructor ratio as outlined in the American Heart Association curriculum. Contractor will provide a main instructor (salary at $17 per hour, paid by the contractor), manikins and AED trainers. HHSA The Knowledge Center will also pay $6.00 for each BLS card per student. HHSA The Knowledge Center will use a credit card to facilitate payments.

If students wish to purchase class related materials through instructor, this is acceptable. Contractor agrees to give students other options/companies where to purchase said material.

G. **Conditions Prerequisite to Payments.** County may elect not to make a particular payment if any of the following exists:

1. **Misrepresentation.** Contractor, with or without knowledge, made any misrepresentation of substantial and material nature with respect to any information furnished to County.

2. **Unauthorized Actions by Contractor.** Contractor took any action pertaining to this Agreement, which required County approval, without having first received said County approval.

3. **Default.** Contractor was in default under any terms and conditions of this Agreement.

4. **Fees for Service.** Contractor shall not implement a schedule of fees to be charged to clients or third party client representatives without prior County approval.

H. **Withholding Of Payment.** County may withhold reimbursement until reports, data, audits, or other information required for Agreement administration or to meet County or State reporting or auditing requirements are received and approved by COTR or designee. County may also withhold payment if, in County’s opinion, Contractor is in noncompliance with this Agreement.

I. **Term and Termination:** This contract ends **June 30, 2012** and can be renewed upon mutual agreement. Should Southwestern College and HHSA, TKC terminate their relationship, Southwestern agrees to purchase the Heartsaver and Fundamentals for the BLS Healthcare Providers manuals at half price if the books are still current. They will also purchase the remaining manikin supplies, face shields, videos, and disposable gloves at half price.

J. **Mutual Indemnification Clause:** Each Party to this Agreement shall indemnify, defend, and hold harmless the other party and its officers, agents, and employees against any and all claims, losses, damages, liabilities, and related expenses (including attorney fees), arising out of the performance of this Agreement, except that each party shall bear any liabilities or expenses arising in whole or in part from its own negligent acts or omissions or those of its officers, agents and employees.
County of San Diego, Health and Human Services Agency, The Knowledge Center (HHSA TKC) 
And 
Southwestern Community College District (Contractor) 
Exhibit C – Statement of Work: First Aid Classes 
July 1, 2011 – June 30, 2012

KEY SOW ELEMENTS

A. Scope of Work/Purpose: Contractor shall provide First Aid classes, taught accordingly to the American Heart Association guidelines.

B. Outcome Objectives: All participants pass the requirements necessary to obtain an American Heart Association First Aid certification card.

C. Target Population: HHSA staff and other county employees. Min. enrollment: 22 Participants per class session.

D. Training Dates/Times & Location: All classes will be held at 5201 Ruffin Rd., Ste-G, and San Diego, CA 92123. All classes will be from 1:00 pm – 5:00 pm.

- July 12, 2011
- August 23, 2011
- September 13, 2011
- October 18, 2011
- November 15, 2011
- December 13, 2011
- January 17, 2012
- February 14, 2012
- March 13, 2012
- April 17, 2012
- May 15, 2012
- June 12, 2012
- Other times and sites upon mutual agreement (i.e. referrals)

E. Contract Hours: 4 hours per class (The 1pm – 5pm class: Instructor is present at 1pm; class officially begins at 1:15pm)

F. Contract Amount: HHSA The Knowledge Center will reimburse Contractor for Teaching Assistant costs at $17 per hour, in an amount not to exceed $4,000. When an assistant is not available there is no charge to the District. Assistant number of instructors will depend on student ratio to instructor as outlined in the American Heart Association curriculum. Contractor will provide a main instructor (salary at $17 per hour, paid by the contractor), manikins and AED trainers. HHSA TKC will also pay
$6.00 for each BLS card per student. HHSA TKC will agree to use a credit card to facilitate payments.

If students wish to purchase class-related materials through instructor, this is acceptable. Contractor agrees to give students other options where said materials may be purchased.

G. **Conditions Prerequisite to Payments:** HHSA TKC may elect not to make a particular payment if any of the following exists:

1. **Misrepresentation.** Contractor, with or without knowledge, made any misrepresentation of substantial and material nature with respect to any information furnished to County.

2. **Unauthorized Actions by Contractor.** Contractor took any action pertaining to this Agreement, which required County approval, without having first received said County approval.

3. **Default.** Contractor was in default under any terms and conditions of this Agreement.

4. **Fees for Service.** Contractor shall not implement a schedule of fees to be charged to clients or third party client representatives without prior HHSA TKC approval.

H. **Withholding of Payment:** HHSA TKC may withhold reimbursement until reports, data, audits, or other information required for Agreement administration or to meet County or State reporting or auditing requirements are received and approved by the contracting officer technical representative or designee. HHSA TKC may also withhold payment if, in HHSA TKC's opinion, Contractor is in noncompliance with this Agreement.

I. **Term and Termination:** This contract ends June 30, 2012 and can be renewed upon mutual agreement. Should Southwestern College and HHSA, TKC terminate their relationship, Southwestern agrees to purchase the Heartsaver and Fundamental for the BLS Healthcare Providers manuals at half price if the books are still current. They will also purchase the remaining manikin supplies, face shields, videos, and disposable gloves at half price.

J. **Mutual Indemnification Clause:** Each Party to this Agreement shall indemnify, defend, and hold harmless the other party and its officers, agents, and employees against any and all claims, losses, damages, liabilities, and related expenses (including attorney fees), arising out of the performance of this Agreement, except that each party shall bear any liabilities or expenses arising in whole or in part from its own negligent acts or omissions or those of its officers, agents and employees.
County of San Diego, Health and Human Services Agency, The Knowledge Center (HHSA TKC)  
And  
Southwestern Community College District (Contractor)  
Agreement for:  
Exhibits A, B & C  
July 1, 2011 – June 30, 2012

The signatures below indicate agreement to the terms/conditions outlined in the following contracts:

Exhibit A: Adult, Child & Infant Heartsaver and AED Certification Class (Layperson)  
Exhibit B: CPR Renewal for Healthcare Provider  
Exhibit C: First Aid Classes

DATE: ______________________________  
County of San Diego, HHSA  
The Knowledge Center

By: ______________________________  
Name: ______________________________  
Mayda Downs  
Title: HHSA, The Knowledge Center Manager  
Address: 5201 Ruffin Rd, Ste-G  
San Diego, CA 92123

DATE: ______________________________  
Southwestern Community College District

By: ______________________________  
Name: ______________________________  
Denise Whittaker  
Title: Interim Superintendent/President  
Address: 900 Otay Lakes Road  
Chula Vista, CA 91910

Approved as to form by the office of the Purchasing, Contracting & Central Services Director  
Approval No.: A322411  
Date: 6/28/11
MEMORANDUM

TO: Members of the Governing Board  
Southwestern Community College District

APPROVED BY: Denise Whittaker, Ph.D.  
Interim Superintendent/President

SUBMITTED BY: Mark Meadows, Ph.D.  
Vice President for Academic Affairs

INITIATED BY: Christine M. Perri, RDH, MA  
Dean, Higher Education Center at National City and Crown Cove Aquatic Center

SUBJECT: Agreement with the City of Chula Vista

RECOMMENDATION

Approve Agreement No. A3222.11 with the City of Chula Vista, to serve as a Community Training Center, for the period July 1, 2011 to June 30, 2012, inclusive, in a reimbursable amount not to exceed $4,000.

OVERVIEW

This agreement designates Southwestern College to provide First Aid training, and Adult Cardio Pulmonary Resuscitation and Automated External Defibrillation training leading to certification for laypersons in accordance with the American Heart Association guidelines.

FISCAL IMPACT/ACCOUNT

NTE $4,000 Cost to the District (reimbursable)/Account No. 1-38835-701100-934 (General Funds)  
CMP/ahl
City of Chula Vista
And
Southwestern Community College District (Contractor)
Exhibit A -- Statement of Work for:
Heartsaver First Aid with Adult CPR
and
AED Certification Class (Layperson)
July 1, 2011 – June 30, 2012

KEY SCOPE OF WORK ELEMENTS:

A. Scope of Work/Purpose: Contractor shall provide (Heartsaver) Adult, CPR and AED training leading to certification for laypersons in accordance to the American Heart Association guidelines.

B. Outcome Objectives: All participants pass the requirements necessary to obtain a certified CPR card. Students should be able to pass all requirements as set by the American Heart Association.

C. Target Population: City of Chula Vista employees.
Minimum enrollment: 22 Participants per class session.

D. Training Dates and Location: All classes will be held as needed at the City of Chula Vista Public Works Center, 1800 Maxwell Road, Chula Vista, CA. 91911. All classes will be from 8:00am – 5:00pm.

- July 21, 2011
- August 25, 2011
- September 22, 2011
- October 20, 2011
- November 18, 2011
- December 15, 2011
- January 19, 2012
- February 23, 2012
- March 22, 2012
- April 19, 2012
- May 24, 2012
- June 21, 2012
- Other times and sites upon mutual agreement (i.e. referrals)

E. Contract Hours: 8 hours per class.
City of Chula Vista
And
Southwestern Community College District (Contractor)
Exhibit A – Statement of Work for:
Heartsaver First Aid with Adult CPR
and
AED Certification Class (Layperson)
July 1, 2011 – June 30, 2012

F. Contract Fees:

a. The City of Chula Vista will reimburse Contractor for Teaching Assistant
   costs at $17 per hour, in an amount not to exceed $4,000. When an assistant
   is not available there is no charge to the District.
   i. Teaching Assistant positions will be staffed by Chula Vista Explorer
      BLS instructors. If Explorers are not available, other qualified
      Teaching Assistants will be assigned by Contractor.
   
   ii. The number of instructors/teaching assistants will depend on student
       to instructor ratio as outlined in the American Heart Association
       guidelines.

b. The City of Chula Vista will pay $10 per each Heartsaver First Aid card
   provided to students that successfully complete the course.

c. Contractor will provide a main or primary instructor at no cost to the City of
   Chula Vista, as long as the minimum number (20) of student enrollment is
   met.

d. The City of Chula Vista will provide current American Heart Association
   Heartsaver First Aid books for students, to be available before, during and
   after classes.

e. The City of Chula Vista agrees to issue a purchase order to facilitate
   payments.

G. Conditions Prerequisite to Payment: The City of Chula Vista may elect not to
   make a particular payment if any of the following exists:

1. Misrepresentation: Contractor, with or without knowledge, made any
   misrepresentation of substantial and material nature with respect to any
   information furnished to The City of Chula Vista.
City of Chula Vista
And
Southwestern Community College District (Contractor)

Exhibit A – Statement of Work for:
Heartsaver First Aid with Adult CPR
and
AED Certification Class (Layperson)

July 1, 2011 – June 30, 2012

2. Unauthorized Actions by Contractor: Contractor took any action pertaining to this agreement which required City approval, without having first received said City of Chula Vista approval.

3. Default: Contractor was in default under any terms and conditions of this agreement.

4. Fees for Service: Contractor shall not implement a schedule of fees to be charged to clients or third party client representatives without prior City of Chula Vista approval.

II. Withholding of Payment: The City of Chula Vista may withhold reimbursement until reports, data, audits, or other information required for agreement administration or to meet County or State reporting or auditing requirements are received and approved by the contracting officer technical representative or designee. The City of Chula Vista may also withhold payment if, in the City of Chula Vista’s opinion, Contractor is in noncompliance with this agreement.

I. Term and Termination: The term of this agreement is from July 1, 2011 to June 30, 2012.

J. Mutual Indemnification Clause: Each Party to this Agreement shall indemnify, defend, and hold harmless the other party and its officers, agents, and employees against any and all claims, losses, damages, liabilities, and related expenses (including attorney fees), arising out of the performance of this Agreement, except that each party shall bear any liabilities or expenses arising in whole or in part from its own negligent acts or omissions or those of its officers, agents and employees.
City of Chula Vista
And
Southwestern Community College District (Contractor)
Exhibit A – Statement of Work for:
Heartsaver First Aid with Adult CPR
and
AED Certification Class (Layperson)
July 1, 2011 – June 30, 2012

The signatures below indicate agreement to the terms/conditions outlined in the following contracts:

Exhibit A: Heartsaver First Aid with Adult CPR and AED Certification Class (Layperson)

Date: ____________________
The City of Chula Vista
By: _______________________
Name: Lisa Torres
Title: Human Resources Analyst
Address: 276 Fourth Avenue
Chula Vista, CA 91910

Date: ____________________
Southwestern Community College District
By: _______________________
Name: Denise Whittaker
Title: Interim President/Superintendent
Address: 900 Otay Lakes Road
Chula Vista, CA 91910

Approved as to form by the office of the
Purchasing, Contracting & Central Services
Director
Approval No.: 3222.11
Date: 3/28/11

Originator: Christine Perri, Dean
Higher Education Center – National City
Account No. No cost to the District

Revised 2/1/2011
MEMORANDUM

TO: Members of the Governing Board
   Southwestern Community College District

APPROVED BY: Denise Whittaker
               Interim Superintendent/President

SUBMITTED BY: Mark Meadows, Ph.D.
               Vice President for Academic Affairs

INITIATED BY: Trish Axson
               Dean, School of Career & Technical Education

SUBJECT: Agreement with San Francisco Community College District

RECOMMENDATION

Ratify Agreement No. AR3234.11 with the San Francisco Community College District, to establish a partnership, for the period September 1, 2010 to June 30, 2011, inclusive, in an amount not to exceed $12,500 income to the District.

RATIONALE FOR RATIFICATION

Corrections requested by the agency were not received in a timely fashion.

OVERVIEW

The purpose of this agreement is to establish a partnership with San Francisco Community College District, California Early Childhood Mentor Program, in order to provide a practicum for Child Development students. The District shall receive $25 per unit of college credit, up to 500 units.

FISCAL IMPACT/ACCOUNT

NTE $12,500 Income to the District/Account No. 1-38699-732130-350

TA/cd
SAN FRANCISCO COMMUNITY COLLEGE DISTRICT

AGREEMENT

CALIFORNIA EARLY CHILDHOOD MENTOR PROGRAM

This Agreement, dated for reference purposes only, September 1, 2010, is entered into by and between: the San Francisco Community College District (SFCCD), hereinafter known as the "District," on behalf of its California Early Childhood Mentor Program, hereinafter known as the "Mentor Program," and Southwestern Community College District, hereinafter known as "Contractor".

This agreement is entered into pursuant to San Francisco Community College District Board of Trustees Resolution No. 100527-B20

Appropiation or Grant Number _____ CN100089____

RECITALS:

Whereas, the San Francisco Community College District has applied for and has received a grant from the California State Department of Education (Resolution 100527-B20) for the purposes of operating a Mentor Program; and

Whereas, the SFCCD has received authorization from its Board of Trustees to enter into agreements with California community colleges to provide such services as: coordinating and offering an adult supervision course and seminars for mentors and directors; coordinating and developing mentoring programs; offering honoraria for faculty working with the college mentoring program; providing books and other instructional materials for mentors; and printing and copying mentor materials.

Now, Therefore, the parties agree as follows:

1. **TERM:** The term of this Agreement shall commence on September 1, 2010 and terminate June 30, 2011 except as otherwise set forth in this agreement.

2. **SERVICES TO BE RENDERED BY CONTRACTOR:** The services to be rendered are incorporated by reference as in Attachment A. If any terms of the attachment and this Agreement are in conflict, this Agreement shall prevail.

3. **PAYMENT:** Invoice to be submitted and payment as a stipend to be made by District to Contractor shall be as set forth in Attachment A.

4. **INDEPENDENT CONTRACTOR:** The parties agree that with regard to this Agreement, Contractor is an independent contractor and not an employee of the District.

Any terms in this Agreement or its attachments referring to direction from the District shall be construed as providing for direction as to policy and the result of work only, and not as to the means by which such a result is obtained.

5. **EXPENSES FOR EQUIPMENT, TOOLS, MATERIALS OR SUPPLIES:** Contractor shall supply, at no cost or charge to District, all equipment, tools, materials, and/or supplies to accomplish the services agreed to be performed unless otherwise provided in this agreement; District shall not be liable to Contractor for any expenses paid or incurred by Contractor not provided for in this agreement unless otherwise agreed to in advance in writing.
6. **ASSIGNMENT**: Contractor shall not assign this Agreement nor the consideration payable under this Agreement without the written consent of the District.

7. **TERMINATION**: District may terminate this Agreement for District's convenience and without cause at any time by giving the other parties written notice of such termination. The notice shall specify the date upon which the termination becomes effective. In the event of such termination, Contractor shall be paid for his/her services that have been performed to the satisfaction of the District under this Agreement, up to the date of termination. Any payment by District shall be conditioned on Contractor providing to the District any and all materials required by District related to the services rendered.

8. **WRITTEN NOTICE**: All notices required or permitted to be given by this Agreement shall be deemed given when personally delivered to the recipient thereof or two (2) days after it has been mailed by certified mail, return receipt requested, postage prepaid, and addressed to the parties.

   Any party by a written notice to the other parties may change the address of notice or the names of the persons or parties to receive written notice.

9. **GOVERNING LAW**: This Agreement shall be construed in accordance with and governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation, and performance of the Agreement shall be in San Francisco.

10. **SEVERABILITY**: If any term, provision, covenant, or condition of the Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the rest of the Agreement shall remain in full force and effect and in no way shall be affected, impaired, or invalidated.

11. **NON-WAIVER**: The failure of any party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights or a waiver of any subsequent breach.

12. **NO AUTHORITY TO BIND DISTRICT**: Contractor has no authority to enter into contracts or agreements on behalf of District. This Agreement does not create the relationship of agent, servant, employee, partnership or joint venture with the District.

13. **AMENDMENTS**: No amendment to this Agreement shall be effective unless it is in writing and signed by all parties.

14. **CONFLICT OF INTEREST**: Contractor states that it is familiar with provisions of Section 87100 et seq. of the Government Code and certifies that it does not know of any facts which constitute a violation of said provisions. In the event contractor receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, Contractor agrees it shall notify District of such information.

15. **DAMAGES**: Contractor shall be responsible for any and all damages resulting in whole or in part from Contractor's acts or omissions.

16. **INDEMNIFICATION**: District agrees to defend, indemnify and hold harmless Contractor, its Board of Trustees, officers, agents, and employees, individually and collectively, from and against all claims, liabilities, obligations and causes of action of whatever kind arising in any manner whatsoever out of or in connection with the acts or omissions of District, its Board of Trustees, officers, agents, and employees.

   Contractor agrees to defend, indemnify and hold harmless District, its Board of Trustees, officers, agents, and employees, individually and collectively, from and against all claims, liabilities, obligations and causes of action of whatever kind arising in any manner whatsoever out of or in connection with the acts or omissions of Contractor's officers, agents, and employees.

   Contractor's obligations under this section 16 shall survive the termination of this Agreement.
17. **COMPLIANCE WITH LAWS AND REGULATIONS:** Contractor shall keep informed of all laws and governmental regulations that may affect its obligations. It shall observe and comply with, and shall cause all its agents, employees, consultants, and subcontractors to observe and comply with all said laws and regulations, including obtaining business permits and licenses that may be required to carry out the work to be performed under this Agreement.

18. **LIABILITY OF DISTRICT:** District's obligations under this Agreement shall be limited to the payment of the compensation as provided for in Section 3 of this Agreement but shall also include activities as provided for in Attachment A. Notwithstanding any other provision of this Agreement, in no event shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits, arising out of or in connection with this Agreement or the services performed in connection with this Agreement.

19. **NON-DISCRIMINATION CLAUSE:** During the performance of this Agreement, District and Contractor shall not unlawfully discriminate, harass or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical leave and denial of pregnancy leave. District and Contractor shall ensure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. District and Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f) set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this contract by reference and made a part hereof as if set forth in full. District and Contractor shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

20. **BUDGET CONTINGENCY:** This Agreement is valid and enforceable only if sufficient funds are made available to the State by the United States Government or the California State Legislature for the Fiscal Year(s) covered by this agreement for the purpose of this program. In addition, this Agreement is subject to any additional restrictions, limitations, conditions or any statute enacted by the Congress or the State Legislature that may affect the provisions, terms or funding of this agreement in any manner.

21. **ENTIRE AGREEMENT/MODIFICATION:** This writing sets forth the entire Agreement between the parties, and supersedes all other oral or written provisions. This Agreement may be modified only by a written document executed and approved in the same manner as this Agreement.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate on the date specified immediately adjacent to their signatures below.

"District"

By: 
Signature of SFCCD person authorized to execute agreement
Print Name: Peter Goldstein
Title: Vice Chancellor for Finance and Administration
Date: September 1, 2010

Recommended By:

Signature: 
Print Name: Linda Olivenbaum
Title: Director, California Early Childhood Mentor Program
Address: 50 Phelan Avenue, S-10
San Francisco, CA 94112
Date: September 1, 2010

"Contractor"

By: 
Signature
Print Name: Denise Whittaker
Title: Interim Superintendent/President
Address: 900 Otay Lakes Road
Chula Vista, CA 91910

Date:

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No.: AR323411
Date: 7/28/11

Approved as to Form by: Ronald Lee, General Counsel
Master Agreement - Southwestern 2010-2011 Page 4
Attachment A
Southwestern Community College District
September 1, 2010 – June 30, 2011

Grossmont College will take the lead in the San Diego Regional Early Childhood Mentor Program. In addition to Grossmont College, the San Diego Regional Early Childhood Mentor Program includes five colleges: Cuyamaca College, San Diego City College, San Diego Mesa College, San Diego Miramar College, and Southwestern College. The Regional Program requires individual contracts between all six colleges and the San Francisco Community College District.

A. San Francisco Community College District on behalf of the California Early Childhood Mentor Program shall provide the following resources for implementation of the Contractor’s program, subject to the District’s approval:

1. Updated materials and assistance to facilitate implementation of the program including a Program Manual, an In-Service Training Resource Guide, reporting forms and one-on-one technical assistance.

2. Travel expenses for the Contractor’s Local, Regional and College Coordinators to attend statewide meetings to discuss program elements, the status of implementation and materials. Travel expenses must be within state guidelines and limits as specified in the Program Manual and as may reasonably be revised by the District.

3. $625 for the Contractor’s College Coordinator. The Contractor’s Coordinator may be paid directly by the San Francisco Community College District in the sole discretion of the District. The District reserves the right to withhold and/or reduce the Coordinator payment if responsibilities listed in Section B are not fulfilled in a timely manner.

4. $150 for printing and copying costs for program implementation or Mentor materials. The Contractor’s Coordinator may be reimbursed directly by the San Francisco Community College District in the sole discretion of the District, or through their local college.

B. Contractor as a college agrees to designate a Regional Coordinator. The Coordinator shall be responsible for the following activities:

Selection and Re-Certification

1. Promoting the program on campus and in the community.

2. Enrolling teachers and providers in the Mentor Teacher/Adult Supervision Course, based on the syllabus provided in the Program Manual and as may reasonably be revised by the District. The Contractor as a college agrees to enroll students and to issue credit. The Contractor also agrees that it will accrue no ADA when instructional costs are reimbursed. Students pay tuition if they are receiving credit.
3. Recruiting qualified child care providers and directors from the community who may be interested in becoming Mentors.

4. Modifying and distributing Mentor and Director Mentor applications and establishing appropriate application deadlines as currently described in the Program Manual and as may reasonably be revised by the District.

5. Assuring compliance with selection criteria for Mentor Teachers and Director Mentors as set forth in Sections D and E below.

6. Adhering to the Policy on the Mentor Option in Campus Labs as currently described in the Program Manual and as may reasonably be revised by the District.

7. Modifying and distributing Mentor and Director Mentor Re-Certification applications, and establishing appropriate application deadlines as currently described in the Program Manual and as may reasonably be revised by the District.

8. Appointing a Selection Committee of up to 16 members. The Selection Committee shall include community college instructors, center directors, teachers and other child care practitioners who represent all sectors of the regional child development community (e.g., Head Start, preschool, subsidized, non-profit). The Selection Committee should reflect the diversity of program types, ethnicities and language capacities in the community.

9. Training Selection Committee Members in the use of the Harms and Clifford Scales: the Early Childhood Environment Rating Scale-Revised (ECERS-R), the Infant/Toddler Environment Rating Scale-Revised (ITERS-R), the School-Age Care Environment Rating Scale (SACERS), and Family Child Care Environment Rating Scale-Revised (FCCERS-R). Training Selection Committee Members in the use of the Program Administration Scale (PAS).

10. Serving as a Selection Committee Member as currently described in the Program Manual and as may reasonably be revised by the District. Such service is optional for local college or Regional Coordinators but mandatory for college Coordinators in a Region.

11. Scheduling meetings for the Selection Committee to review Mentor applications, evaluate applicants’ centers or classroom sites, and to make final selections by June 1st of each contract year.

12. Notifying all New and Re-Certification applicants to inform them of final decisions as soon as possible after the final Selection Committee meeting.

13. Petitioning the District in writing that Mentor pool size be increased in an academic year. In such cases, determination will be made by Mentor Program staff based on current statewide allocations and student placement rates at the local college.

14. Maintaining eligibility requirements for Mentor Teachers in accordance with program policy as currently described in the Program Manual and as may reasonably be revised by the District.

15. Maintaining eligibility requirements for Director Mentors in accordance with program policy as currently described in the Program Manual and as may reasonably be revised by the District.

**Professional Growth**

Master Agreement - Southwestern 2010-2011 Page 6
16. Facilitating or arranging for facilitation of a 1-2 unit credit-optional monthly Seminar for Mentors to combine informal discussion of issues they confront in supervising student teachers with further study of supervision issues, leadership and mentoring skills.

17. Facilitating or arranging for facilitation of a 1-2 unit credit-optional monthly Seminar or continuing course for directors to study administrative issues, quality improvement strategies, leadership development and mentoring issues.

18. Providing Mentor and Director Seminar Instructors with the Growing Leaders In-Service Training Resource Guide and other necessary instructional materials as supplied by the District.

19. Ensuring that instructors for the Mentor and Director Seminars are regularly evaluated in accordance with college policies.

20. Supporting Mentor In-Service Training activities with Mentor materials and other appropriate funding where available.

21. Approving In-Service Training Contracts for annual Professional Development activities for Mentor Teachers as currently described in the Program Manual and as may reasonably be revised by the District.

Placements and Stipend Activities

22. Working within the college’s administrative procedures to institutionalize the Mentor Program. This includes seeking curriculum committee approval for courses, including program information in the college catalog and course schedule, and establishing load credit for practicum instructors who support placements with Mentors.

23. Providing the District with official course outlines for all courses in which students may be placed with Mentors.

24. Placing students with Mentors, acting as intermediary between the student and Mentor, and monitoring the Mentors’ work. The college agrees to offer the placement with a Mentor as an alternative to the existing practicum course(s).

25. Overseeing student placements with Mentors to ensure only one student will be in the Mentor’s classroom at a time.

26. Approving the following as currently described in the Program Manual and as may reasonably be revised by the District:

   - Mentor-protégé contracts for Post-Practicum placements;
   - Mentor-student contracts for Individual Student Mentoring;
   - Hourly Mentoring Record stipends for short-term mentoring services;
   - Hourly Birth to Three/FCCH Mentoring Record stipends for short-term mentoring services for Infant/Toddler and Family Child Care teachers and providers;
   - Director Mentor-protégé director contracts for Director placements;
   - Hourly Director Mentoring Record stipends for short-term mentoring services;
   - Hourly Birth to Three/FCCH Director Mentoring Record stipends for short-term mentoring services for Infant/Toddler directors and Large Family Child Care providers
27. Approving Practicum, Post-Practicum, Individual Student Mentoring Contracts and Mentoring Record hours for use with CDC-WORKs! (formerly TANF-CDC) students as currently described in the Program Manual subject to the guidelines on Mentor Usage Limitation as set forth by the CDC-WORKs! Program and as may reasonably be revised by the District.

28. Serving, if requested and willing, as a Field Trainer as currently described in the Program Manual and as may reasonably be revised by the District.

Payments
29. Maintaining records of all costs and disbursements and reporting these monthly to the District in a timely and accurate manner.

30. Submitting authorizations to pay all stipends within 30 days following the end of the placement.

31. Submitting all fiscal reporting and requests for reimbursement to the District no later than June 15th of each contract year.

32. Acknowledging that the Coordinator’s payment may be withheld and/or reduced if reporting is not accomplished in a timely manner.

33. Applying for and utilizing Additional Funding to Support Instructional Costs for an Adult Supervision Course if appropriate.

34. Applying for and utilizing Supplemental Support Funding for Large Area Programs if appropriate.

35. Applying for and utilizing Supplemental Support Funding for the Director Mentor Component if appropriate.

36. Providing full reporting on the use of any Supplemental Support Funding as currently described in the Program Manual and as may reasonably be revised by the District.

Evaluations
37. Facilitating program evaluation.


Agreements and Reports
39. Completing and submitting to the District Quarterly Reports as follows:
   - First Quarter: August 1 to October 31, due October 31st of each contract year
   - Second Quarter: November 1 to January 31, due January 31st of each contract year
   - Third Quarter: February 1, to April 30, due April 30th of each contract year

40. Completing and submitting to the District all Annual Reporting materials on or before June 15th of each contract year.

Mentor Program Meetings
41. Attending all required Coordinator meetings and/or being responsible for acquiring and understanding the information and materials presented at these meetings.

42. Selecting eligible participants for the annual Mentor Institute.

43. If the college is participating in the CDC-WORKS! Program, collaborating with the Child Development Training Consortium Campus Coordinator, CDC-WORKS! Program Facilitator, and CDC-WORKS! CalWORKS Liaison two times per semester.

**Maintaining Records**

44. Keeping records on each Mentor's placement history, student evaluations of the Mentor, the Mentor's application and re-certification, and stipend amounts. Keeping comparable records for each Director Mentor.

45. Maintaining program data and records in archives for five years.

C. Contractor will designate a College Coordinator to perform the following functions:

1. Place students with Mentors, act as intermediary between the student and Mentor, and monitor the Mentors' work. The college agrees to offer the placement with a Mentor as an alternative to the existing practicum course(s).

2. Collect student evaluations of Mentors and provide the Regional Coordinator—in a timely and accurate manner—with any data necessary for the monthly, quarterly or annual reports.

3. Serve on the regional Selection Committee.

4. Facilitate the evaluation of the statewide program.

5. If the college is participating in the CDC-WORKS! Program, collaborate with the Child Development Training Consortium Campus Coordinator, CDC-WORKS! Program Facilitator, and CDC-WORKS! CalWORKS Liaison two times per semester.

D. Contractor will designate an instructor who will be responsible for teaching the Mentor Teacher/Adult Supervision Course, a 2-unit course on adult supervision skills for Mentor candidates, based on a course syllabus included in the Program Manual and as may be reasonably revised by the District.

E. Contractor shall insure that Classroom Mentor applicants shall complete the following requirements in order to be considered for selection:

1. A college level Early Childhood training program that included an Early Childhood practicum supervised by a college instructor for credit. Candidates must submit a transcript proving completion of this requirement.

2. The two-unit Mentor Teacher/Adult Supervision Course, as described in Sections B.2 and D in this Attachment.

3. Two years of experience as a classroom teacher or family child care provider.

4. Eligibility for the Master Teacher Level, or higher, of the California Child Development Permit.

5. The Mentor Application (see Program Manual) which includes information on the applicant's educational background and experience, a personal statement, a transcript
proving completion of the practicum as part of her/his Early Childhood education and the Harms and Clifford rating sheet from her/his self-review. The Application also includes a "supervisor's agreement" to support the candidate's application and participation as a Mentor. As public elementary school teachers have their own mentoring program, they are not eligible to participate in the California Early Childhood Mentor Program.

6. A site review of the center's National Association for the Education of Young Children (NAEYC) accreditation status by members of the Mentor Selection Committee and direct observation of teaching practices, or completion of a site review and self study using the appropriate Harms and Clifford Scale (ECERS-R, ITERS-R, SACERS or FCCERS-R).

F. Contractor shall ensure that Director Mentor applicants shall complete the following requirements in order to be considered for selection:

1. Three years of experience as a director or site supervisor in a child development program (current or prior).

2. Successful completion of a Director Mentor Institute as currently described in the Program Manual and as may be reasonably revised by the District.

3. The Director Mentor Application (see Program Manual) which includes information on the applicant's educational background, experience, statement of program philosophy, selection of items for Program Administration Scale (PAS) review, and references.

4. Completion of a Program Administration Scale (PAS) interview by members of the Mentor Selection Committee. A site review of the applicant's worksite (if applicable).

G. Contractor agrees to provide the following resources for implementation of the program:

1. Facilities for the Mentor Teacher/Adult Supervision Course, Selection Committee training and meetings, the Mentor Seminar and the Director Seminar as currently described in the Program Manual and as may be reasonably revised by the District.

2. Funds for program costs in excess of amounts provided in Section A of this agreement.

H. Contractor agrees that in cases where active Mentors from other Regional or Local Mentor Programs wish to apply to this college's program, acceptance and selection will be at the discretion of this college's Selection Committee based on space availability and other selection criteria.

I. District reserves the right to withdraw the resources listed in Section A for non-performance of activities and requirements listed in Sections B through G. Written notice of such withdrawal—and a procedure and timeline to appeal such a decision—will be provided to Contractor.
MEMORANDUM

TO: Members of the Governing Board
   Southwestern Community College District

APPROVED BY: Denise Whittaker
   Interim Superintendent/President

SUBMITTED BY: Mark Meadows, Ph.D.
   Vice President for Academic Affairs

INITIATED BY: Terry Davis
   Dean, School of Health, Exercise Science and Athletics

SUBJECT: Agreement with Osaka Jekei College

RECOMMENDATION

Approve Agreement No. AR3233.11 with Osaka Jekei College, for the International Medical Office Support Educational and Cultural Seminar, for the period April 26 to April 28, 2011, inclusive, in the amount of $8,000 income to the District.

OVERVIEW

It is within the District’s mission and philosophy to recognize its unique role in multicultural communication and education, and commitment to promoting, understanding and appreciating diversity of cultures. Southwestern College (SWC) students will work side-by-side with international students in class, who will provide academic information on comparison of the health service system in our country. Southwestern College students will experience a cultural exchange of ideas related to medical office support. The District will receive $200 per student with a minimum of 40 students. Funds received will support post-season competition for SWC Athletic programs.

FISCAL IMPACT/ACCOUNT

$8,000 Income to the District/Account No. 1-38896-083517-507 (Restricted Income)

TD: jsi
CONTRACT INSTRUCTION AGREEMENT

THIS AGREEMENT is made on April 14, 2011 by and between Southwestern Community College District, 900 Otay Lakes Road, Chula Vista, California 91910 (hereafter referred to as "District") and Osaka Keikai College/JAPAN, Head Office, 1-2-8, Miyahara, Yodogawa-ku, Osaka, 532-0003, JAPAN (hereafter referred to as "Agency").

IN CONSIDERATION of the promises, mutual covenants, consideration and agreement herein contained, the parties mutually agree and contract as follows:

1. SERVICES: District agrees to provide the following training program for Agency as follows:

   a. Program Title: **International Medical Office Support Educational and Cultural Seminar**.

      Course Titles and Descriptions:
      Medical Coding: Students will receive instruction on coding techniques and will be provided an opportunity to practice this skill.

      Medical Records Management: Students will learn records management skills that are unique to the medical field with the broader goal of understanding the various methods used in the United States to keep records organized, updated, and secure.

      Medical Insurance Billing: Students will review standard techniques in medical insurance billing and will be provided an opportunity to practice this skill.

      Medical Office Procedures and Transcription: Students will receive instruction on typical office procedures and document transcription skills using specialized software commonly found in medical offices. They will be provided a hands-on opportunity to keyboard or transcribe medical documents.

      Cultural Opportunities: Participants will have the opportunity to experience interaction with Southwestern College Physical Education students from the intercollegiate sports programs. Students will have the opportunity to observe a sporting event or engage in an intercultural activity.

   b. Student credentials provided upon successful completion:

      Credit: ☐  Noncredit: ☐  Southwestern Course Certificate: ☑

      Course Dates: Medical Coding, Medical Records Management, Medical Insurance Billing; Medical Office Procedures and Transcription – April 26, 27 & 28, 2011


   c. Schedule: April 26, 27 & 28, 2011 (Wednesday, Thursday and Friday) 8:30 a.m. to 4:30 p.m.

   d. Total hours of instruction: 24 hours per student

   e. Training Site: Southwestern College, Chula Vista Campus
2. AGENCY AGREES TO THE FOLLOWING:

a. Pay Southwestern College a fee as follows: 40 students, $200 per student. Payment will be made upon completion of training or within fifteen (15) days after receipt of service.

b. 50% of profits will go towards instructor fees, ancillary staff and contracted interpreters.

c. The fee includes all course materials.

d. Class size will not exceed a maximum of 20 students.

e. The Agency will provide all transportation to all venues.

3. DISTRICT COLLEGE AGREES TO provide a certificated community college instructor to deliver the educational program and to provide appropriate curriculum.

4. MODIFICATION OF AGREEMENT: This agreement may be modified at any time by the written consent of both parties.

5. CANCELLATION: This agreement may be terminated by either party without cause by giving fifteen (15) days written notice to the other party prior to the commencement of services. Any costs incurred by District prior to the date of termination will be paid to District by Agency.

6. EQUAL OPPORTUNITY: Neither District nor Agency shall discriminate against any employee or student on the basis of age, race, color, religion, national origin, sex, or mental or physical handicap.

7. GOVERNING LAW: This contract shall be governed by and construed in accordance with the laws of the State of California.

8. INSURANCE AND LIABILITY:

a. Agency shall carry its usual comprehensive general liability insurance and Workers' Compensation for the duration of this agreement, covering Agency's referred employees or students.

b. District shall carry public liability insurance, or shall self-insure for public liability, covering the employees of District during assignment with the Agency. District shall carry its usual Workers' Compensation coverage for employees of District during assignment with Agency.

c. Each party to this Agreement shall indemnify and hold harmless the other party, its respective officers, agents, and employees, against any and all claims, losses, damages, liabilities and related expenses (including attorney fees), arising out of the performance of this Agreement, except that each party shall bear any liabilities or expenses arising in whole or in part from its own negligent acts or omissions or those of its officers, agents and employees.
Southwestern Community College District

By: ______________________
Name: Denise Whittaker
Title: Interim Superintendent/President
Address: 900 Otay Lakes Road
Chula Vista, CA 91910

Date: ______________________

Osaka Jekie College

By: ______________________
Name: Mr. K. Hashimoto
Title: Executive Director
Address: Osaka Jekie College/JAPAN, Head Office
1-2-8, Miyahara, Yodogawa-ku,
Osaka, 532-0003, JAPAN

Date: ______________________

Approved as to form by the office of the Purchasing, Contracting & Central Services Director
Approval No: D 233 11
Date: 12/11

Originator: Terry Davis, Dean
Health, Exercise Science and Athletics
Budget #: 1-38896-083517-507

3
MEMORANDUM

April 13, 2011

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Mark Meadows, Ph.D.
Vice President for Academic Affairs

INITIATED BY: Kathy Tyner
Dean, School of Mathematics, Science and Engineering

SUBJECT: Agreement with San Diego State University (SDSU) Research Foundation

RECOMMENDATION

Ratify Agreement No. AR3235.11 with San Diego State University (SDSU) Research Foundation, for the Faculty Collaborations for Course Transformation (FACCTS) Project, for the period July 19, 2010 through July 19, 2011, inclusive, in the amount of $5,561 income to the District.

RATIFICATION

Notification from funding source was delayed which prevented processing in a timely manner.

OVERVIEW

The Faculty Collaborations for Course Transformation (FACCTS) is a pilot project of collaborative innovation teams for course redesign in Developmental Mathematics in conjunction with the Community Colleges Chancellor’s Office Basic Skills Initiative.

FISCAL IMPACT/ACCOUNT

$5,561 Income to the District/Account No. 1-38111-493041-730 (Grant Funded)

KT:Is
Subagreement
between
San Diego State University Research Foundation
and
Southwestern Community College District

SDSU Research Foundation Fund #56417A P3905 7802 02 213
Encumbrance #E0008180

This document is to serve as a Subagreement between San Diego State University Research Foundation (hereinafter referred to as "SDSU Research Foundation"), a non-profit corporation under the laws of the State of California, in the, with its principal offices located at 5250 Campanile Drive, San Diego, CA 92182-1934 and Southwestern Community College with its principal offices located at 900 Otay Lakes Road, San Diego, CA, 91910, (hereinafter referred to as "Subrecipient").

WITNESSETH THAT:

WHEREAS, SDSU Research Foundation has received an award from The William and Flora Hewlett Foundation, Award Number 2010-5554, for the project entitled "FACCTS+"; and,

WHEREAS, SDSU Research Foundation desires to obtain the services of the Subrecipient to perform work under this Subagreement; and,

WHEREAS, the Subrecipient has represented to SDSU Research Foundation that it is knowledgeable, qualified, and expert in skills required for this project and covenants that it is capable of performing the services required under this agreement and desires SDSU Research Foundation to engage its services;

NOW THEREFORE, the parties do mutually agree as follows:

ARTICLE 1. SCOPE OF WORK; COOPERATION.

The Subrecipient agrees to undertake, carry out and complete for SDSU Research Foundation, in a satisfactory and competent manner, all of the work and services set forth in Exhibit A, of which are attached hereto and made part hereof.
In addition to the specific services and formal reports required hereunder, Subrecipient agrees that it will at all times during the performance of this subagreement maintain close liaison with SDSU Research Foundation's project director in order to assure a well integrated effort.

ARTICLE II. KEY PERSONNEL.

Key personnel for this Project shall include:

Thomas Carey, serving as SDSU Research Foundation's Project Director.

Karen Cliffe, serving as the Subrecipient's Project Director.

Subrecipient shall not replace or substitute another individual as its project director without the expressed written prior approval of SDSU Research Foundation.

ARTICLE III. STATUS OF PARTIES.

The Subrecipient is acting as an independent contractor in the performance of work under this Subagreement, and shall be solely responsible for the payment of any and all claims for loss, personal injury, death, property damage, or otherwise, arising out of any act or omission of its employees or agents in connection with the performance of work under this Subagreement.

ARTICLE IV. NOTICES.

All notices to any party hereunder shall be in writing, signed by the party giving it, and shall be sufficiently given or served, if sent by registered mail addressed the parties at their addresses indicated on the face sheet hereto.

ARTICLE V. PERIOD OF PERFORMANCE.

The period of performance of this Subagreement shall be from July 19, 2010 through July 19, 2011.

ARTICLE VI. COMPENSATION AND MAXIMUM COST.

In full and complete consideration of Subrecipient's satisfactory performance under this Agreement, Subrecipient shall be reimbursed for allowable costs incurred in providing the work required of this Subagreement not to exceed a maximum amount of $5,561.28.

Subagreement expenditures shall be in accordance with the detailed budget which appears as Exhibit A, attached hereto and incorporated by reference herein, and is expressly made part of
this Subagreement. Minor variances among budget line items are allowable to the extent they are in accordance with the applicable cost principles and administrative requirements set forth in Article VII, and the terms of this Subagreement.

Use of any grant funds (a) to influence the outcome of any specific public election of any candidate for public office or to carry on, directly or indirectly, any other activity that is prohibited to a public charity, or (b) to provide material support to any person or entity that engages in violent or terrorist activities, is prohibited.

ARTICLE VII. SUBAGREEMENT ADMINISTRATION.

This Subagreement shall be administered in accordance with the applicable provisions of:

Office of Management and Budget
2 CFR, Part 220
Cost Principles for Educational Institutions (OMB Circular A-21)

or

Office of Management and Budget
2 CFR, Part 225
Cost Principles for State and Local Governments (OMB Circular A-87)

Office of Management and Budget
2 CFR, Part 215
Uniform Administrative Requirements for Institutions of Higher Education, Hospitals and other Non-Profit Organizations (OMB Circular A-110)

or

Office of Management and Budget
Circular A-102
Administrative Requirements for State and Local Governments

Office of Management and Budget
Circular A-133
Audits of States, Local Governments, and Non-Profit Organizations


If there is a conflict between the main Subagreement Articles and the general principles of the Subagreement administration documents incorporated above, the Subagreement Articles shall take precedence.
ARTICLE VIII. PAYMENT.

Subrecipient shall be reimbursed for allowable costs up to a maximum of $5,561.28. Payment to Subrecipient shall be made within thirty (30) days upon receipt and approval by SDSU Research Foundation of an itemized invoice showing approved budget categories, expenditures for the period covered by the invoice, and cumulative expenditures to date for expenditures made in the following budget categories: Office Equipment, Computers, Office supplies, Printing & Publications, and Instructional Supplies.

All invoices submitted must contain the following certification statement: "I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the Subagreement." All invoices must be signed by the Subrecipient's chief financial officer or designee.

Invoices may be submitted monthly if Subrecipient so desires, but no less often than quarterly. All payments made under this Subagreement shall be considered provisional and subject to audit under Article X. Final invoices must be received by SDSU Research Foundation no later than 30 days after July 19, 2011. On receipt and approval of the invoice or voucher designated by the Subrecipient as the "final invoice" or "final voucher" and upon compliance by the Subrecipient with all provisions of this Subagreement, SDSU Research Foundation shall promptly pay to the Subrecipient any balance of allowable cost.

The Subrecipient agrees that any refunds, rebates, credits, or other amounts (including interest thereon, accruing to or received by the Subrecipient or any assignee under this Subagreement) shall be paid, or where appropriate, credited, by the Subrecipient to SDSU Research Foundation to the extent that they are properly allocable to costs for which the Subrecipient has been reimbursed by SDSU Research Foundation under this Subagreement.

ARTICLE IX. FINANCIAL MANAGEMENT SYSTEMS.

Subrecipient shall maintain acceptable financial management systems during the term of the Subagreement. Such systems shall provide:

- accurate, current and complete disclosure of the financial activity under this Subagreement;
- records that identify the source and application of SDSU Research Foundation's funds;
- effective control over and accountability for all funds, property and other assets;
- comparison of actual outlays with budgeted Subagreement amounts;
- consistency with the applicable regulatory cost principles; and,
accounting records supported by source documentation.

Subrecipient shall arrange for an annual examination by an independent accountant in order to ascertain the effectiveness of the Subrecipient's financial management systems and internal procedures established to meet the terms of this Subagreement.

If Subrecipient is an organization subject to the uniform administrative requirements of 2 CFR, Part 215 (Circular A-102) or arranges for audits that comply with OMB Circulare A-133 or equivalent guidelines, Subrecipient shall provide SDSU Research Foundation with a copy of all written reports that were prepared by the Subrecipient's independent accountant in order to be in compliance with the appropriate Circular.

Other Subrecipient shall provide annually to SDSU Research Foundation, at the end of each of the Subrecipient's fiscal year, annual audited financial statements and any written communication designed to comply with Statement on Auditing Standards #60 that were prepared by the Subrecipient's independent accountants.

Failure to comply with the terms of this Article may lead to Subagreement termination in accordance with Article XIV.

ARTICLE X. RECORDS RETENTION AND AUDIT.

SDSU Research Foundation, its agents, the Comptroller General of the United States, The William and Flora Hewlett Foundation, or any of their duly authorized representatives shall have unrestricted access to and the right to examine and audit directly pertinent books, documents, papers and records of Subrecipient including financial transactions and supporting documents, general accounting system, internal controls, management practices, policies and procedures. Such books, documents, papers and records shall be retained by Subrecipient for a period of three years following the date of the final payment under this Subagreement.

It is understood and agreed, that in the event SDSU Research Foundation is subject to an audit conducted by The William and Flora Hewlett Foundation that results in the identification of unallowable costs associated with this agreement, Subrecipient shall promptly issue a refund to SDSU Research Foundation for eventual repayment to The William and Flora Hewlett Foundation.

ARTICLE XI. HOLD HARMLESS AND INDEMNIFICATION OF LIABILITY

Subrecipient shall defend, indemnify and hold harmless the Foundation, San Diego State University, the Trustees of California State University, the State of California, the Federal Government, or other parties affiliated with the Center, its officers, employees and agents from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Subagreement but only in proportion to and to the extent such
liability, loss, expense, attorney's fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Subrecipient, its officers, agents or employees.

The Foundation shall defend, indemnify and hold harmless the Subrecipient, its officers, employees and agents from and against any and all liability, loss, expense, attorney's fees, or claims for injury or damages arising out of the performance of this Subagreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the Foundation, its officers, agents or employees.

ARTICLE XII. INSURANCE.

Each party hereby agrees to maintain a program of insurance and/or self insurance that is both prudent and adequate to address any liabilities and/or obligations pursuant to this Agreement.

ARTICLE XIII. FUNDING.

Subrecipient understands that the source of funds for the payment of Subrecipient's services hereunder is an award between SDSU Research Foundation and The William and Flora Hewlett Foundation and that the execution of this Agreement does not, nor does it purport to, bind San Diego State University, or the State of California.

ARTICLE XIV. TERMINATION.

Subrecipient shall use its best efforts to provide the services herein contained at the time and in the manner herein provided. This Subagreement may be terminated by SDSU Research Foundation or by the Subrecipient at any time upon the giving of thirty (30) days prior written notice to the other party. Said notice shall be given to the person executing this Subagreement. In the event of termination, the Subrecipient shall be entitled to payment for acceptable and allowable work performed under this Subagreement, and for all un-cancelable obligations made in connection with such work, through the date of termination. Any prepaid but unearned funds shall be promptly returned to SDSU Research Foundation.

Early termination of this Subagreement does not release Subrecipient from compliance with appropriate provisions of this Subagreement, i.e., Article X. Records Retention and Audit.

It is understood and agreed, however, that in the event Subrecipient is in default upon any of its obligations hereunder at the time of termination, SDSU Research Foundation shall be entitled to pursue any rights or remedies which SDSU Research Foundation may have against Subrecipient by reason of such default, and SDSU Research Foundation may withhold any payments to the Subrecipient for the purpose of set-off until such time as the exact amount of damages may be determined.
ARTICLE XV. EQUAL OPPORTUNITY/ NON-DISCRIMINATION/AFFIRMATIVE ACTION.

Subrecipient shall comply with the provisions of Title VII of the Civil Rights Act of 1964 (42 USC 2000 as amended by the Equal Opportunity Act of March 24, 1972, Public Law No. 92-261) in that it shall not discriminate against any individual with respect to his or her compensation, terms, conditions, or privileges of employment, or discriminate in any way which would deprive or intend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee because of such individual's race, color, religion, sex, national origin, age, handicap, medical condition, or marital status.

Subrecipient shall ensure that services and benefits are provided without regard to race, color, religion, sex, age, or national origin in accordance with Title VII of the Civil Rights Act of 1964. Subrecipient shall comply with Section 503 of the Rehabilitation Act of 1973, as amended (29 USC 794), pertaining to the prohibition of discrimination against qualified handicapped persons.

SDSU Research Foundation is a government contractor subject to the requirements of Executive Order 11246, as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor"; Section 402 of the Vietnam Era Veterans Readjustment Act of 1972, as amended; Section 503 of the Rehabilitation Act of 1973, as amended, and related rules and regulations of the Department of Labor and the Office of Federal Contract Compliance programs. As a government contractor, SDSU Research Foundation is obligated to obtain from its Subrecipient and suppliers certain certifications with regard to applicable contracts as follows:

A. Certification of compliance with the Equal Opportunity Clause set forth in Section 202 of Executive Order 11246 if the Subagreement exceeds $10,000 in any year.

B. Certification of non-segregated facilities for its employees if the Subagreement exceeds $10,000 in any year.

C. Certification of the filing of annual reports on Standard Form 100 (EEO-1) if the value of the Subagreement exceeds $50,000 and if the Subrecipient employs 50 or more people.

D. Certification of the development and maintenance of a written and signed Affirmative Action Program at each of the Subrecipient's facilities if the value of the Subagreement exceeds $50,000 and if the Subrecipient employs 50 or more people.

E. Agreement by the Subrecipient to comply with the provisions of 41 CFR 60-741 relating to the employment of handicapped persons if the value of the Subagreement is $2,500 or more.
Agreement by the Subrecipient to comply with the provisions of 41 CFR 60-250 relating to the employment of veterans if the value of the Subagreement is $10,000 or more.

ARTICLE XVI. CONFLICT OF INTEREST

Subrecipients must promote objectivity in research by establishing standards to ensure that the design, conduct and reporting of research is not biased by a conflicting financial interest of an Investigator. Investigator is defined as the Project Director and any other person who is responsible for the design, conduct, or reporting of research associated with the attached statement of work, including the Project Director’s spouse and dependent children. Subrecipients must have a written administrative process to identify and manage financial conflict of interests and must inform the investigator of the conflict of interest policy and of the investigator’s responsibilities. Prior to expenditure of these awarded funds, the Subrecipients must report to SDSU Research Foundation the existence of a conflicting interest and within 60 days of any new conflicting interests after the initial report. Subagreement recipients must comply with these and all other aspects of 42 CFR Part 50, Subpart F. These requirements also apply to third tier subrecipient, contractors, or collaborators engaged by the Subrecipients under this Subagreement.

ARTICLE XVII. HUMAN SUBJECTS.

When SDSU is engaged in human subjects research and activities involving human subjects are carried out by the Subrecipient, the Subrecipient agrees to be guided by the ethical principals in “The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research” and comply with the Department of Health and Human Services (DHHS) policies and regulations on the Protection of Human Subjects within Code of Federal Regulations (45 CFR 46 including subparts) in the conduct of the research. Funds shall not be expended for, and individuals shall not be enrolled in, research involving human subjects, without prior approval by the Office of Protection from Research Risks (OPRR) of an assurance to comply with the requirements of 45 CFR 45 to protect human research subjects and approval by an Institutional Review Board of activities covered by the Subagreement. This restriction also applies to all performance sites with OPRR-approved assurances, whether domestic or foreign.

ARTICLE XVIII. CERTIFICATION REGARDING DEBARMENT.

This agreement is subject to debarment and suspension regulations published in the Federal Register for May 26, 1988. In order to assure compliance with these regulations, Subrecipient must provide the certification set forth in Exhibit "C", which is attached to and made a part of this Agreement. By executing this Subagreement, Subrecipient acknowledges that it is also making the required certification.
ARTICLE XIX. RIGHTS IN DATA.

Subrecipient grants to SDSU Research Foundation the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings blueprints, and technical information resulting from the performance of work under this Subagreement.

ARTICLE XX. WARRANTY OF ORIGINALITY.

Subrecipient warrants that all material produced by the Subrecipient and delivered to SDSU Research Foundation hereunder shall be original, except for such portion as is included with permission of the copyright owners thereof, that it shall contain no libelous or unlawful statements or materials, and will not infringe upon any copyright, trademark, patent, statutory or other proprietary rights of others and that it will hold harmless SDSU Research Foundation from any costs, expenses and damages resulting from any breach of this warranty.

ARTICLE XXI. ASSIGNMENT.

This Subagreement is not assignable by Subrecipient either in whole or in part, nor shall the Subrecipient further Subagreement for the performance of any of its obligations hereunder, without the prior written consent of SDSU Research Foundation.

ARTICLE XXII. LAWS GOVERNING.

This Subagreement shall be governed by and construed in accordance with the laws of the State of California.

LEFT BLANK INTENTIONALLY
ARTICLE XXIII. ENTIRE AGREEMENT.

This Subagreement and the Attachments hereto contain the entire agreement of the parties, and no representation, provision, warranty, term, condition, promise, duty or liability, expressed or implied, shall be binding upon or applied to either party, except as herein stated. No amendment or modification of any term, provision or condition of this Subagreement shall be binding or enforceable unless in writing and signed by each of the parties.

More Information
More on project goals, tasks and outcomes: Dr. Thomas Carey, 562 708-2572 tcarey@projects.sdsu.edu
More on project administration: Amy Pinion, 619 594-5092, apinion@foundation.sdsu.edu

Please confirm your interest by signing on the following page, and returning to:

Adriana Estudillo
Sponsored Research Analyst
SDSU Research Foundation
Sponsored Research Contracting & Compliance
5250 Campanile Drive
San Diego, CA 92182-1954

Telephone: (619) 594-5733
Fax: (619) 582-9164
Email: a.estudillo@foundation.sdsu.edu

IN WITNESS WHEREOF, the parties have executed this Subagreement as of the date hereof.

For Southwestern Community College District

Faculty: Karen Cliffe, Project Director

Administrative Contact/Department Head: Kathy Tyner

College Administration Authorized Official:
Denise Whitaker
Interim Superintendent/President

Date

For San Diego State University Research Foundation

Faculty: Thomas Carey, Principal Investigator

By
Foundation Authorized Official:

Date

Approved as to form by the Office of the
Purchasing, Contracting & Central Services
Director

APPROVAL NO. A2333511
Date: 4/15/11

10
EXHIBIT “A”

Scope of Work (Page 1 of 4)

The Center for Research in Mathematics and Science Education (CRMSE) at San Diego State University is pleased to invite Southwestern Community College to participate in a pilot project of collaborative resource and knowledge exchange for faculty teaching Developmental Mathematics, in conjunction with the CCC Basic Skills Initiative at both the state and regional levels. By sharing knowledge and resources across colleges, faculty can increase the impact of their individual course enhancements for student success.

Background: Several colleges from the San Diego area participated in a pilot project in Faculty Collaborations for Course Transformations in 2009-2010 supported by a grant from the William and Flora Hewlett Foundation to CRMSE and the San Diego State University Research Foundation. Parallel pilot projects engaged Dev Math faculty in the LA and SF Bay regions. In follow on work, Dev Math faculty members from three San Diego colleges are working in partnership with SDSU to develop a national Development Mathematics Teaching Collection, with support from the National Science Foundation’s NSDL program. Two further projects are under development by faculty teams and have been submitted for funding in 2011-2012.

Outcomes of the Project:

- Departmental faculty who participate in the project will enhance the learning experience and student success in Developmental Mathematics at Southwestern Community College;

- Faculty will also have the opportunity for collaborative professional development in their capability to identify, mobilize, adapt, evaluate, and share knowledge and resources for exemplary teaching;

- The project will also contribute to developing more effective ways for faculty to collaborate on sharing and mobilizing learning resources and teaching knowledge for student success.

Project Activities:

- A professional development program, Developmental Math Teaching PIRC, to build faculty capability for teaching that is more Professional, Innovative, Research-informed, and Collaborative

- Assigned time/stipend for a Southwestern Community College Math faculty member, Karen Cliffe, to serve as Faculty Colleague for the Bay Area Knowledge Exchange for Dev Math on behalf of the department. The initial role description for this assignment is listed below as Attachment 5 – a key part of the project is the evolution of the Faculty Colleague role to enable other department faculty to take advantage of the resources and knowledge from other colleges (and to contribute in turn to the benefit of others).

The Faculty Colleague is part of a team from San Diego area colleges led by regional coordinators Terrie Teegarden, a Mesa College faculty member working under the auspices of the NSDL Developmental Mathematics Collection project, and Balduin Rhodelaun, an SDSU Research Team member and former instructor at Southwestern College. Program Leader and SDSU Visiting Senior Scholar Tom Carey will support the Faculty Colleagues, guide the evolution of the regional activities and help the Evaluator for the project to assess the value returned to the department. The team of Faculty Colleagues will be supported by PD workshops and other ongoing assistance from the SDSU research team, and will coordinate with complementary BSI activities at the regional and college levels.
Scope of Work (Page 2 of 4)

- Departmental faculty will be supported in cooperation and collaboration across colleges to share learning resources, teaching knowledge and professional advice, in activities such as the following:
  a. Recommending, adapting and testing exemplary resources for inclusion in the regional Teaching Resource and Knowledge Exchange collection (and potential aggregation into state-wide and national collections);
  b. cooperating, around shared interests to understand specific instructional issues, explore potential solutions and evaluate new teaching approaches, tools and technology;
  c. contributing comments and expertise to support the adaptive work of others, and receiving and applying colleagues' reciprocal ideas and expertise;
  d. tracking and providing feedback to Math faculty colleagues participating in national initiatives for innovation in developmental mathematics instruction,
  e. where gaps are identified in the existing base of knowledge and resources, faculty will have opportunities for assigned time to support of short-term collaborations on shared issues of importance across colleges;
  f. development of further projects and external funding opportunities.

Resources and Services
As part of this agreement, SDSURF will provide the following resources and services:

- Grant to Southwestern Community College to enable the designated Faculty Colleague to be provided with a stipend to acknowledge time spent in the collaborative knowledge building activities, in the amount of $5,561.28 to be distributed as follows:
  o $2,561.28 March 15, 2011
  o $3,000 June 15, 2011
- CRMSE researchers with expertise in educational development, including college staff on secondment, will support the college team. The CRMSE research team will assist faculty to identify, adapt and share innovative instructional practices and exemplary resources, as well as supporting team coordination, online tools and group interactions.

As part of this agreement, Southwestern Community College will provide the following resources and services:

- Time of faculty member Karen Clift to participate in the project as Southwestern College’s Faculty Colleague,
- Support for departmental activities designed and implemented by the Faculty Colleague.
- Contributions of other faculty as appropriate, to identify and promote exemplary practices as part of an ongoing knowledge exchange network for Developmental Mathematics.

Intellectual Property
- Ownership of all intellectual property will be governed by existing institutional policies.
- Wherever possible, resources created in the project will be made available to other instructors in the CCC and elsewhere as open educational resources, with rights-to-use equivalent to a Creative Commons Attribution-Noncommercial-Share Alike License.
- We recognize that there may be cases where other arrangements for rights-to-use will be needed (e.g., adaptation of existing resources with other provisions governing reuse). Faculty will notify the Program Leader, Tom Carey, when their work requires an exception to the availability of the resulting products as open educational resources.

Administrative Details
- 1-2 on-site meetings anticipated for Spring 2011
- Teleconferences will be held every 1-3 weeks using CCCConfer
- Subgroups may be formed to address specific issues
- Webpage technology will be used for i) an online team workspace and ii) a public weblog.

Page 2 of 4 (SOW)

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Scope of Work (Page 3 of 4)

The Faculty Colleagues Team - Supporting Collaborative Exchange of Teaching Knowledge and Resources for Faculty in Developmental Mathematics

Objective: to improve courses and curriculum for student success in developmental mathematics by enhancing the exchange and mobilization of faculty teaching knowledge, leading to increased take-up and adaptation of exemplary teaching practices and resources.

Strategy: The project plan has four components:
- a program of regional collaborative activities to engage faculty in knowledge and resource exchange across colleges;
- in addition to traditional means for collaborative activities, such as on-site meetings at local colleges and online sessions using CCC Confer phone and web facilities, the project plan also supports faculty interactions through a collaboration and community exchange online workspace, being developed in conjunction with the CASIN professional development infrastructure;
- support for participating departments to assign a faculty member as their Faculty Colleague, to represent the department in program planning and to serve as a resource person for department faculty to engage with project opportunities, activities and support;
- continue design and testing of a professional development program—Teaching PIRCs—to develop faculty capability for teaching that is more Professional, Innovative, Research-informed, and Collaborative.

We anticipate three regional faculty Knowledge Exchanges for Dev math during this project phase, involving up to 7-8 colleges in the LA region, 6-7 colleges in the Bay area and up to 5-6 colleges in the San Diego region.

The Faculty Colleague Team

The Faculty Colleague team is based in part on results from the 2009-2010 projects amongst 16 colleges participating in the Faculty Collaborations for Course Transformations program (FACCTS). To sustain and extend the successful faculty activities in the FACCTS+ program for 2010-2011, a new Faculty Colleague role is being developing to focus support resources at the department level. Faculty Colleagues will be provided with course release time, training and support to enable their departmental colleagues to engage more fully with project opportunities and activities. With the guidance and support of the program team and the regional Faculty Colleague coordinators, departmental Faculty Colleagues will select some of the following activities to be carried out in support of developmental math instructors in their departments (beginning with their own areas of interest for enhancing student success in developmental math):

- represent the department in program planning, including directions for the structure and schedule of professional development workshops and developing related grant proposals to extend collaborations;
- serve as a resource person and catalyst within their departments to support faculty in engaging with the project opportunities and activities for collaboration and professional development;
- with the support of the program team, advise faculty members on request about sources of knowledge and exemplary learning resources relevant to their teaching;
- with the support of the program team, encourage and advise faculty on sharing their knowledge and resources with colleagues, to promote reuse, adaptation and collaboration;
- work cooperatively on shared tasks with the college BSI coordinator and BSI team. This may include fostering other knowledge exchange activities for developmental math instruction within their departments, e.g. Faculty Learning Communities, Inquiry Groups, Teaching Circles, a departmental compendium of shared resources and practices, etc;
- support other Faculty Colleagues on the regional team, and contribute to planning for the inter-regional cooperation in a Dev Math knowledge exchange network.

Page 3 of 4 (SOW)
Scope of Work (Page 4 of 4)

Draft of Initial Faculty Colleagues team activities:

Fall 2010

- September and October: Faculty Colleague teams orientation
- Pilot offering of Professional Development Workshop [October at CMC3-S (Riverside)]:
  Mobilizing Teaching Knowledge and Exemplary Learning Resources in Developmental Math: use of and contribution to departmental activities such as resource repositories and faculty learning communities, regional activities such as the Dev Math KEN online interactions, state-wide activities and national activities such as AMATYC programs and the Developmental Math Collection.
- November and December: Individual consultations with program team and regional Faculty Colleague Team coordinators, to select activities best suited to individual departments and Faculty Colleagues
- Pilot use of Dev Math KEN online workspace for team support and to illustrate distributed knowledge exchange and resource sharing.
- Planning for additional Dev Math Teaching PLRCs PD activities as determined by the Faculty Colleagues teams

Spring 2011

- Initiate departmental collaboration activities (some activities may have already begun in Fall 2010).
  Most Faculty Colleagues will have one course release in Spring 2011. (Departments may appoint a Faculty Liaison instead of a Faculty Colleague, if they want to be involved but cannot reassigned time to a suitable faculty member. The Faculty Liaison will track activities in the regional Knowledge Exchange for Dev Math to inform department members, but will not be expected to be proactive in engaging other faculty or planning department events.)
- Continue F2P and distributed regional and joint meetings of Faculty Colleague teams.
- Contribute to evaluation and revised plans in June 2011.

Fall 2011 and beyond – not covered in this contract

- Engage department faculty in new opportunities planned through grant proposals submitted to NSF
  - Faculty Colleague teams identify shared needs for collaborative projects across projects
  - Collaborative faculty team leaders supported with course release to research/adapt new teaching strategies and learning resources
- Cycle expected to repeat in Spring and Fall 2012.
## EXHIBIT “B”
Subagreement Contacts

<table>
<thead>
<tr>
<th>Prime Recipient Contacts</th>
<th>Subrecipient Contacts</th>
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<tbody>
<tr>
<td><strong>Administrative Contact</strong></td>
<td><strong>Administrative Contact</strong></td>
</tr>
<tr>
<td>Name: Amy Pinion</td>
<td>Name: Kathy Tyner, Dean</td>
</tr>
<tr>
<td>Sponsored Research Administrator</td>
<td>Address: Southwestern Community College</td>
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<td>Fax: (619) 594-0659</td>
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<tr>
<th><strong>Principal Investigator</strong></th>
<th><strong>Project Director</strong></th>
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<td>Name: Thomas Carey</td>
<td>Name: Karen Cliffie</td>
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<td>Address: 6475 Alvarado Road, Suite #206</td>
<td>Address: Southwestern Community College</td>
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<td>Department of Mathematics</td>
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<tbody>
<tr>
<td>Name: Amy Pinion</td>
<td>Name: Wayne Yanda, Director of Finance</td>
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<td>Sponsored Research Administrator</td>
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<tr>
<th><strong>Authorized Official</strong></th>
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<tbody>
<tr>
<td>Name: Sandra M. Nordahl, CRA</td>
<td>Name: Denise Whittaker</td>
</tr>
<tr>
<td>Co-Director Sponsored Research Contracting and Compliance</td>
<td>Interim President/Superintendent</td>
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</tr>
<tr>
<td>Email: <a href="mailto:snordahl@foundation.sdsu.edu">snordahl@foundation.sdsu.edu</a></td>
<td>Email:</td>
</tr>
</tbody>
</table>
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EXHIBIT “C”

Certification Regarding
Debarment, Suspension, and other Responsibility Matters
Primary Covered Transaction

Purpose

This certification is required by the regulation implementing Executive Order 12549, Government wide Debarment and Suspension (Nonprocurement), 34 CFR Part 85, Section 85.510, Participants’ Responsibilities. See following page for Certification Instructions.

Certification

(1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this proposal been convicted of a, or had a civil judgment rendered against them, for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statement, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statement in this certification, such prospective participant shall attach an explanation to this proposal.
Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out on previous page.

2. The inability of a person to provide the certification required on the reverse will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out on previous page. The certification or explanation will be considered in connection with the department or agency’s determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms “covered transaction,” “debarred,” “suspended,” “ineligible,” “lower tier covered transaction,” “participant,” “person,” “primary covered transaction,” “principle,” “proposal,” and “voluntarily excluded,” as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

7. The prospective primary participant further agrees by submitting this proposal that it will include this clause titled, “Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered Transaction” provided by the department or agency entering into this covered transaction, without modification in all lower covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.
EXHIBIT "F"
SAMPLE INVOICE

From: Subrecipient Name
       Subrecipient Address

To: San Diego State University Research Foundation
    Accounts Payable
    5250 Campanile Drive, 4th Floor
    San Diego, CA 92182-1941

Invoice No: 3
Invoice Period Covered: __________________________
Invoice Date: __________________________
SDSU Subagreement No: __________________________

(Report expenditures against itemized budget (Exhibit B) of agreement)

<table>
<thead>
<tr>
<th>BUDGET</th>
<th>APPROVED BUDGET</th>
<th>CURRENT PERIOD</th>
<th>EXPENDITURES TO DATE</th>
<th>CURRENT BALANCE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lab Supplies @ $150/month</td>
<td>1,800</td>
<td>77.88</td>
<td>235.40</td>
<td>1,564.60</td>
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<tr>
<td>Instructional Supplies @ $500/month</td>
<td>600</td>
<td>157.05</td>
<td>157.05</td>
<td>442.95</td>
</tr>
<tr>
<td>Telephone @ $75/month</td>
<td>900</td>
<td>66.23</td>
<td>183.50</td>
<td>716.50</td>
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<tr>
<td>Postage @ $15/month</td>
<td>180</td>
<td>0.00</td>
<td>26.13</td>
<td>153.87</td>
</tr>
<tr>
<td>Duplicating @ $500/month</td>
<td>600</td>
<td>14.83</td>
<td>50.25</td>
<td>549.75</td>
</tr>
<tr>
<td><strong>Subtotal Direct Costs</strong></td>
<td><strong>$55,213</strong></td>
<td><strong>$4,575.16</strong></td>
<td><strong>$13,825.37</strong></td>
<td><strong>$41,387.63</strong></td>
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<tr>
<td>Indirect Costs @ 25% TDCE</td>
<td>13,804</td>
<td>1,143.70</td>
<td>3,456.34</td>
<td>$10,347.66</td>
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<tr>
<td>Total</td>
<td><strong>$69,017</strong></td>
<td><strong>$5,718.85</strong></td>
<td><strong>$17,281.71</strong></td>
<td><strong>$51,735.29</strong></td>
</tr>
</tbody>
</table>

Invoice Total $5,668.95

Make Check Payable to: Subrecipient Name

I certify that all expenditures reported (or payment requested) are for appropriate purposes and in accordance with the provisions of the Subagreement.

Name __________________________ Date _________________
Subrecipient Chief Financial Officer

Subrecipient Contact Person: __________________________
Telephone: __________________________
Fax: __________________________
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SUBRECIPIENT COMMITMENT FORM

SUBRECIPIENT INFORMATION

Subrecipient Legal Name: Southwest Community College

Subrecipient's PI: Karen Oliffe

Prime Sponsor: The William and Flora Hewlett Foundation

SDSU Proposal Title: FACTS+ 

Subrecipient Total Funds Requested: $5,561.26

Performance Period Begin: (m/d/yyyy) 7/19/2010

Performance Period End: (m/d/yyyy) 7/19/2011

ARRA Funded

SECTION A: Proposal/Documents

The following documents are included in our subaward proposal submission and covered by the certifications below:

☐ Statement of Work (required)
☐ Budget and Budget Justification (required)
☒ This Subrecipient Commitment Form (required) completed and signed by Subrecipient's Authorized Official
☐ Small/Small Disadvantaged Business Subcontracting Plan, in agency-required format (required for proposals over $500,000)
☐ Biographies of Key Personnel in agency-related format

Other

SECTION B: Special Review and Certifications

1. Facilities and Administrative Rates included in this proposal have been calculated based on:
☐ Our Federally-negotiated F&A rates for this type of work, or a reduced F&A rate that we hereby agree to accept. (If this box is checked, a copy of your F&A rate agreement must be furnished to SDSURF before a subaward will be issued.)
☐ Other rates (please specify the basis on which the rate has been calculated in Section D: Comments below)
☒ Not applicable (no indirect cost request for subrecipient)

2. Fringe Benefit Rates included in this proposal have been calculated based on:
☐ Rates consistent with or lower than our Federally-negotiated rates. (If this box is checked, a copy of your FR rate agreement must be furnished to SDSURF before a subaward will be issued.)
☐ Based on actual rates,
☒ Other rates (please specify the basis on which the rate has been calculated in Section D: Comments below)

3. Subrecipient Business Status:
☐ Large Business
☐ Small Business
☒ Institution of Higher Education
☐ Small Disadvantaged Business (SDB) (80)
☐ Women-owned small business (WOSB)
☐ Veteran-owned small business (VOSB)
☐ Minority Institution
☐ Service-disabled veteran-owned business (SDVOSB)
☐ HUBZone small business
☐ Alaska Native Corporation (ANC) (43 USC 1801)
☐ Historically Black College or University

If "Yes" please complete Vendor Information Form located at https://www.foundation.sdsu.edu/umsz/whilepurchasing and attach it to this form.

SDSU Research Foundation Form Issued: April 9, 2010
4. Affirmative Action Compliance:

Indicate in accordance with the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 702-2) that your organization has:

☑ a written affirmative action program has been developed and is on file
☑ a written affirmative action program has not been developed and is not on file
☑ no previously had contracts subject to affirmative action programs

5. Human Subjects:

☐ Yes ☑ No

Determination of Exemption or IRB Approval Date: [mm/dd/yyyy] and IRB Number: __________________________

(Note: Surveys, interviews, observations, or use of secondary data may be human subjects research. Contact your local IRB office for guidance.)

If "Yes" copies of the determination of exemption or IRB approval must be provided before any subaward will be issued. If not attached here, obtain approval as required and forward these documents to SDSURF's PI and the SDSURF Sponsored Research Development Office, as soon as they become available. Please indicate the SDSURF PI name and subaward number for reference, if available. In accordance with SDUS policy, SDSURF's IRB must conduct a secondary review of the subaward work and issue a companion approval before any subaward will be issued.

If "Yes" and NIH funding is involved

Have all key personnel involved completed human subjects training? ☐ Yes ☐ No

Note: All key personnel engaged in human subjects research must take NIH human subjects training or other human subjects research training (http://grants.nih.gov/grants/guidelines/fwa_rule.html) as required by NIH.

Does your organization/institution have a Federally Assurance (FWA) Number? ☐ Yes ☑ No If "Yes" provide number:

6. Animal Subjects:

☐ Yes ☑ No Approval Date: [mm/dd/yyyy] and IACUC Number: __________________________

If "Yes" copies of the IACUC approval must be provided before any subaward will be issued. If not attached here, obtain approval as required and forward these documents to SDSURF's PI and the SDSURF Sponsored Research Development Office, as soon as they become available. Please indicate the SDSURF PI name and subaward number for reference, if available. In accordance with SDUS policy, SDSURF's IACUC must conduct a secondary review of the subaward work and issue a companion approval before any subaward will be issued.

Does your organization/institution have a PHS Animal Welfare Assurance Number? ☐ Yes ☑ No If "Yes" provide number:

Is your organization/institution AAALAC accredited? ☐ Yes ☑ No If "Yes" provide number:

7. Responsible Conduct of Research (RCR):

The prime sponsor of this project is:

☐ National Institutes of Health

Policy:

NIH requires that all trainees, fellows, participants, and scholars receiving support through any NIH training, career development award (individual or institutional), research education grant, and dissertation research grant must receive instruction in responsible conduct of research. This policy will take effect with all new and renewal applications submitted on or after January 1, 2015, and for all continuations (Type 5) applications with deadlines on or after January 1, 2015. The Policy applies to the following programs: D43, D44, T32, T35, F31, F32, F35, F38, F39, F36, K01, K02, K08, K09, K12, K18, K22, K23, K24, K25, K26, K30, K30R00, K11, K15, T25, T36, T35, T36, T37, T38GR00, T11, T12, T13, and U24. This policy also applies to any other NIH-funded programs supporting research training, career development, or research education that require instruction in responsible conduct of research as stated in the relevant funding opportunity announcements.

Basic Principles:

The following principles are based on several key concepts about responsible conduct of research and best practices that have evolved over the past two decades’ experiences:

1. Responsible conduct of research is an integral component of research training. Therefore, instruction in responsible conduct of research is an integral part of all research training programs, and its evaluation will impact funding decisions.
2. Active involvement in the issues of responsible conduct of research should occur throughout a scientist’s career. Instruction in responsible conduct of research should therefore be appropriate to the career stage of the individual receiving training.
3. Individuals supported by individual funding opportunities such as fellowships and career development awards are encouraged to assume individual and personal responsibility for their instruction in responsible conduct of research.
4. Research faculty of the institution should participate in instruction in responsible conduct of research in ways that allow them to serve as effective role models for their trainees, fellows, and scholars.
5. Instruction should include face-to-face discussions by course participants and faculty, i.e., on-line instruction may be a component of instruction in responsible conduct of research but is not sufficient to meet the NIH requirement for such instruction, except in special or unusual circumstances.
6. Instructin in responsible conduct of research must be carefully evaluated in all NIH grant applications for which it is a required component.

Compliance:

NIH policy requires participation in and successful completion of instruction in responsible conduct of research by individuals supported by any NIH training/research education/fellowship/career award. It is expected that course attendance is monitored and that a certificate or documentation of participation is available upon request. NIH does not require certification of compliance or submission of documentation, but expects institutions to maintain records sufficient to demonstrate that NIH-supported trainees, fellows, and scholars have received the required instruction.

Resources:

The NIH Research Training website (http://grants.nih.gov/training/extra/ctical.html) includes additional information on instruction in responsible conduct of research and links to the Office of Research Integrity (http://ori.nih.gov), links to institutional materials, and examples of programs that have been regarded as good models for instruction in responsible conduct of research (http://grants.nih.gov/research/extra/ctical.html). The National Academy Press has published the 3rd. edition of the classic, On Being a Scientist, and is available online at http://books.nap.edu/catalog.php?Record_id=12192.
National Science Foundation

Statutory Requirement:
"The Director shall require that each institution that applies for financial assistance from the Foundation for science and engineering research or education describe in its grant proposal a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate students, graduate students, and postdoctoral researchers participating in the proposed research project."

Certification Regarding Responsible Conduct of Research (RCR):
The AOI is required to complete a certification that the institution has a plan to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate, graduate students, and postdoctoral researchers who will be supported by NSF to conduct research. Additional information on NSF’s RCR policy is available in the AGC, Chapter IV.B. While training plans are not required to be included in proposals submitted to NSF, institutions are advised that they are subject to review upon request.

Institutional Responsibilities:
A. An institution must have a plan in place to provide appropriate training and oversight in the responsible and ethical conduct of research to undergraduate, graduate students, and postdoctoral researchers. If an institution has a plan to provide appropriate training and oversight to these groups, it must be supported by NSF to conduct research. As noted in GPG Chapter I.C.10, institutional certification to this effect is required for each proposal.
B. While training plans are not required to be included in proposals submitted to NSF, institutions are advised that they are subject to review upon request.
C. An institution must designate one or more persons to oversee compliance with the RCR training requirement.
D. Institutions are responsible for ensuring that undergraduate, graduate, and postdoctoral researchers supported by NSF to conduct research have received training in the responsible and ethical conduct of research.

8. Cost Sharing:
☐ Yes ☒ No
Amount

(Cost sharing amounts and justification should be included in the Subrecipient’s budget)

9. Conflict of Interest (applicable to DHHS, NSF, or any other sponsor that has adopted the federal financial disclosure requirements):
☐ Not applicable because this project is not being funded by NIH, NSF, or CDC
☒ Subrecipient Organization/Institution hereby certifies that it has an active and enforced conflict of interest policy that is consistent with the provision of 42 CFR Part 50, Subpart F “Responsibility of Applicants for Promoting Objectivity in Research”. Subrecipient also certifies that, to the best of the institution’s knowledge: (1) all financial disclosures have been made related to the activities that may be funded by or through a resulting agreement, and required by its conflict of interest policy; and (2) all identified conflicts of interest have or will have been satisfactorily managed, reduced or eliminated in accordance with Subrecipient’s conflict of interest policy prior to the expenditure of any funds under any resultant agreement.
☐ Subrecipient does not have an active and/or enforced conflict of interest policy and hereby agrees to abide by SDSU’s policy

10. Fiscal Responsibility:
The organization certifies that its financial system is in accordance with generally accepted accounting principles and:
☒ has the capability to identify, in its accounts, all Federal awards received and expended and the Federal programs under which they are received
☒ maintains internal controls to assure that it is managing Federal awards in compliance with applicable laws, regulations and the provision of contracts or grants
☒ complies with applicable laws and regulations
☒ can prepare appropriate financial statements, including the schedule of expenditures of Federal awards
☒ there are no outstanding audit findings which would impact contract costs. If there are findings, submit a copy of the most recent report that describes the findings and steps to be taken to correct the finding.

11. Debarment, Suspension, Proposed Debarment:
Is the PI or any other employee or student participating in this project debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities? If “Yes” please explain in Section D: Comments below.
The Organization certifies: (answer all questions below)
☐ Are ☒ Are Not presently debarred, suspended, proposed for debarment, or declared ineligible for award of Federal Contracts
☐ Are ☒ Are Not presently indicted for, or otherwise criminally or civilly charged by a governmental entity
☐ Have ☒ Have Not within three (3) years preceding this offer, been convicted of or had a civil judgment rendered against them for commission of fraud or criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) contract or subcontract; violation of Federal or State anti-trust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, larceny, false statememt or destruction of records, making false statements or receiving stolen property
☐ Have ☒ Have Not within three (3) years preceding this offer, had one or more contracts terminated for default by any Federal Agency

SDSU Research Foundation
APPROVED FOR SUBRECIPIENT

The information, certifications, and representations above have been read, signed, and made by an authorized institutional representative of the Subrecipient named herein. The appropriate programmatic and administrative personnel involved in this application are aware of agency policies in regard to subawards and are prepared to establish the necessary inter-institutional agreements consistent with those policies.

Any work begun and/or expenses incurred prior to execution of a subaward agreement are at the Subrecipient's own risk.

Signature of Subrecipient's Authorized Institutional Representative

Denise Whittaker, Interim Superintendent/President

Name and Title of Authorized Institutional Representative

Southwestern Community College District

Name or EIN of Subrecipient's Organization/Institution

2/29/11

Date

900 Otay Lakes Road

Address

Chula Vista, CA 91910

City, State, Zip

619-421-6700 x6301

Phone

Fax

dwhittaker@swccd.edu

Email Address

800 Otay Lakes Road

Address

Chula Vista, CA 91910

City, State, Zip

619-421-6700 x6344

Phone

Fax

klyner@swccd.edu

Email Address
RESOLUTION NO. 1690

RESOLUTION REGARDING )
CLASSIFIED COLLEGE )
EMPLOYEE WEEK IN THE )
SOUTHWESTERN COMMUNITY )
COLLEGE DISTRICT )
THE WEEK OF APRIL 25, 2011 )

WHEREAS, classified college employees provide valuable services to the Southwestern Community College District; and

WHEREAS, classified college employees contribute to the establishment and promotion of a positive instructional environment; and

WHEREAS, classified college employees play a vital role in providing for the welfare and safety of the Southwestern Community College District’s students; and

WHEREAS, classified college employees employed by Southwestern Community College District strive for excellence in all areas relative to the educational community;

THEREFORE, BE IT RESOLVED, that Southwestern Community College District hereby recognizes and wishes to honor the contribution of the classified college employees to quality education in the state of California and in the Southwestern Community College District, and declares the week of April 25-April 29, 2011, as Classified College Employee Week in the Southwestern Community College District.

PASSED AND ADOPTED by the Governing Board of the Southwestern Community College District, San Diego County, this 13th day of April, 2011.

__________________________

__________________________

__________________________

__________________________

__________________________

Members of the Governing Board

__________________________

Interim Superintendent/President
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: Priya Jerome
Director of Purchasing, Contracting and Central Services

SUBJECT: Resolution Designating District Employees to Enter Into Contracts

RECOMMENDATION

Recommend Adoption of Resolution No. 1677 Designating District Employees to Enter Into Contracts Pursuant to Education Code 81655.

OVERVIEW

The Southwestern Community College District Governing Board may designate District Employees the authority to enter into contracts. By approving designation of authority to the Superintendent/President, the Vice President for Business and Financial Affairs, the Director of Finance and the Director of Purchasing, Contracting, and Central Services, the District will be in compliance with Education Code 81655.

FISCAL IMPACT/ACCOUNT

No cost to the District.

PJ:lh
Resolution No. 1677

Resolution Designating District Employees to Enter Into Contracts
Pursuant to Education Code 81655

WHEREAS, the power to contract is invested in the Governing Board of the Southwestern Community College District, such power may be delegated to its District’s Superintendent/President and to other officers and employee as the Governing Board may designate in accordance with Education Code 81655.

WHEREAS, the Governing Board may also delegate this power to the Vice President for Business and Financial Affairs, the Director of Finance and the Director of Purchasing, Contracting, and Central Services, this authorization made pursuant to such delegation will not constitute an enforceable obligation to the District until the same shall have been approved or ratified by the Governing Board, said approval or ratification to be evidenced by a motion of said Board duly passed and adopted.

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the District that pursuant to Education Code 81655 delegation is authorized for the Superintendent/President, the Vice President for Business and Financial Affairs, the Director of Fiscal Services and the Director of Purchasing, Contracting, and Central Services; the power to contract, in the name of the District.

PASSED AND ADOPTED by the Governing Board of the Southwestern Community College District of San Diego County, California this 13th day of April, 2011 by the following motion and vote, to-wit:

Motion made by Member ______________, Seconded by Member ______________ the resolution is adopted:

    Ayes:
    Noes:
    Absent:
    Abstentions:

STATE OF CALIFORNIA       )
COUNTY OF SAN DIEGO        )

I, Denise Whittaker, Interim Secretary to the Governing Board of the Southwestern Community College District, of San Diego County, California, do hereby certify that the foregoing is a full, true, and correct copy of a resolution which was duly adopted by the Governing Board of the Southwestern Community College District at a regularly scheduled and conducted meeting held on said date.

___________________________________
Denise Whittaker
Interim Secretary to the Governing Board
ITEM #28C
April 13, 2011

MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

INITIATED BY: Priya Jerome
Director of Purchasing, Contracting and Central Services

SUBJECT: Resolution Designating District Employees the Authority to Purchase Supplies, Materials, Equipment and Services

RECOMMENDATION

Recommend Adoption of Resolution No. 1678 Designating District Employees the Authority to Purchase Supplies, Materials, Equipment and Services Pursuant to Public Contracts Code Section 20651 and Education Code 81656.

OVERVIEW

The Southwestern Community College District Governing Board may designate District Employees the authority to purchase supplies, materials, equipment and services. By approving this designation of authority to the Superintendent/President, the Vice President for Business and Financial Affairs, the Director of Finance and the Director of Purchasing, Contracting, and Central Services, the District will be in compliance with Education Code 81656 and Public Contracts Code Section 20651.

FISCAL IMPACT/ACCOUNT

No cost to the District

PJ:lh
Southwestern Community College District
Resolution No. 1678

Resolution Designating District Employees the Authority to Purchase Supplies,
Materials, Equipment and Services Pursuant to
Public Contracts Code Section 20651 and Education Code 81656

WHEREAS, the expeditious purchase of supplies, materials, equipment and services makes it
necessary for the Governing Board, by majority vote, to designate District Administrators the
authority to purchase for the District;

WHEREAS, the Governing Board, by majority vote, designates the authority to purchase for the
District to the Superintendent/President, the Vice President for Business and Financial Affairs, the
Director of Finance and the Director of Purchasing, Contracting, and Central Services. This authority
should not authorize these employees to make any purchases involving expenditures for the District
in excess of the amount specified by Section 20651 of the Public Contracts Code. All transactions
entered into by the officers or employees shall be reviewed by the Governing Board every 60 days in
accordance with education Code 81656;

NOW, THEREFORE, BE IT RESOLVED by the Governing Board of the Southwestern Community
College District and pursuant to Public Contract Code Section 20651 and Education Code 81656,
that the Superintendent/President, the Vice President for Business and Financial Affairs, the Director
of Finance and the Director of Purchasing, Contracting, and Central Services shall have authority to
purchase supplies, materials, equipment and services for the District.

PASSED AND ADOPTED by the Governing Board of the Southwestern Community College
District of San Diego County, California this 13th day of April, 2011 by the following motion and
vote, to-wit:

Motion made by Member ____________, Seconded by Member ____________ the
resolution is adopted:

Ayes:
Noes:
Absent:
Abstentions:

STATE OF CALIFORNIA )
) ss.
COUNTY OF SAN DIEGO )

I, Denise Whittaker, Interim Secretary to the Governing Board of the Southwestern Community
College District, of San Diego County, California, do hereby certify that the foregoing is a full, true,
and correct copy of a resolution which was duly adopted by the Governing Board of the
Southwestern Community College District at a regularly scheduled and conducted meeting held on
said date.

______________________________
Denise Whittaker
Interim Secretary to the Governing Board
MEMORANDUM

TO: Members of the Governing Board
Southwestern Community College District

APPROVED BY: Denise Whittaker
Interim Superintendent/President

SUBMITTED BY: Robert J. Temple
Interim Vice President for Business and Financial Affairs

SUBJECT: Resolution Establishing a Supplemental Employee Retirement Plan (SERP)

RECOMMENDATION

Recommend adoption of Resolution No. 1692 establishing a supplemental employee retirement plan (SERP).

OVERVIEW

Keenan Financial Services has been asked to assist District staff with providing an early retirement plan to achieve significant reduction in ongoing expenses while providing incentives to employees to accelerate retirement. Keenan has extensive experience in such programs with over 270 districts served with Keenan SERP plans. Keenan is also the only firm with a program that has a pre approved IRS 401(a) plan.

FISCAL IMPACT/ACCOUNT

Potential significant savings to District to help offset reduction in state revenue.

RJT: jr
Resolution No. 1692

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

On April 13, 2011 the Governing Board (the “Board”) of the Southwestern Community College District (the “District”) held a meeting. All members of the Board were present except the following:

On motion of Board Member _______________________, duly seconded and carried, the following Resolution was adopted:

WHEREAS, California Government Code Section 53224 authorizes school districts to make contributions to retirement plans; and

WHEREAS, the Southwestern Community College District desires to provide retirement benefits to its employees under such a plan; and

THEREFORE, IT IS RESOLVED that the Governing Board of Southwestern Community College District hereby establishes a retirement plan for certain eligible employees of the District effective July 01, 2011.

RESOLVED FURTHER that the eligibility requirements for employees to participate in such plan shall be as follows:

- Minimum Age: 55
- Minimum Service: 5 years
- Retire on or before June 30, 2011

RESOLVED FURTHER that the Board hereby adopts that certain plan known as the Southwestern Community College District Supplemental Employee Retirement Plan, effective July 01, 2011.

RESOLVED FURTHER that the benefit under such Plan shall be based on a 65% of salary with health-care costs as determined by the District.

RESOLVED FURTHER that the Southwestern Community College District shall make all contributions to the Plan to fund said benefits.

RESOLVED FURTHER that, for purposes of the limitations on contributions and benefits under the Plan, as prescribed by section 415 of the Internal Revenue Code of 1986, as amended, the “limitation year” shall be the Plan Year, as defined under the terms and provisions of the Plan.

RESOLVED FURTHER that, for purposes of clarification of administration of the Plan but not for purposes of making said Plan subject to title I of ERISA, the Board hereby designates the District as the plan administrator.

RESOLVED FURTHER that the Board hereby appoints the following individuals to comprise the Plan Committee:

Vice President for Human Resources
Position Title

Vice President for Business & Financial Affairs
Position Title
RESOLVED FURTHER that the Board hereby authorizes any member of the Plan Committee to execute on behalf of the District the Form 2848, Power of Attorney and Declaration of Representative.

RESOLVED FURTHER that the Board hereby appoints Keenan Financial Services as the contract administrator to assist the District in the implementation and administration of the Plan.

RESOLVED FURTHER that the Board hereby authorizes and directs Vice President for Human Resources and Vice President for Business & Financial Affairs to take the following actions:

A. Execute the Plan and any and all other documents necessary or proper to implement the Plan.

B. Contract with Keenan Financial Services as contract administrator to provide all services described in the contract.

C. Execute any and all documents, including any amendment to the Plan, necessary or proper to maintain favorable determination of the Plan.

D. Enter into any other contract or agreement which he or she deems necessary or proper to administer and/or fund the Plan and to attain and maintain the income tax qualification of the Plan under the Internal Revenue Code of 1986, as amended.

AYES: __________________________________________

NOES: __________________________________________

ABSENT: _________________________________________

ABSTAIN: _________________________________________

DATED: ____________________________, 2011

I, Denise Whittaker, Interim Secretary of the Governing Board for the Southwestern Community College District, hereby certify that the above and the foregoing Resolution was duly and regularly adopted by the said Board at a regular meeting thereof on this 13 day of April, 2011 and passed by a majority vote of said Board.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 14 day of April, 2011.

____________________________

Denise Whittaker
Interim Secretary of the Governing Board for the
SOUTHWESTERN COMMUNITY COLLEGE
DISTRICT

2
Southwestern Community College District
RESOLUTION NO. 1693

RESOLUTION AFFIRMING WORKERS RIGHTS

WHEREAS, the Southwestern Community College District values our public servants who provide healthcare, fight fires, protect our communities, teach our children, keep our roads safe, and care for our elderly and disabled; and

WHEREAS, labor unions have been strong advocates for equality, and collectively bargained labor contracts have extended legal protections to many people who would otherwise be denied those rights because of discriminatory state laws; and

WHEREAS, the economic crisis we face was not caused by workers but is the result of a global recession fueled by Wall Street greed and the foreclosure freefall; and

WHEREAS, workers have suffered tremendously in this recession and California has an unemployment rate of 12.5 percent, the highest it has been since the Great Depression; and

WHEREAS, attacking workers rights will not help rebuild the economy or fix the budget deficit; and

WHEREAS, public employees in the State of California have the right to bargain collectively to ensure that workers have a voice on the job and can work together to try to improve their lives and provide for their families; and

WHEREAS, collective bargaining has a long tradition of bringing labor and management together to resolve problems peacefully and avert labor disputes; and

WHEREAS, collective bargaining is a process that requires both sides to compromise in order to reach agreement and all union benefits are achieved through sacrifices made on other issues; and

WHEREAS, all workers have benefited from the hard-fought gains of the labor movement, including the eight hour day, minimum wage, the weekend to rest, the lunch break, child labor laws and health and safety protection; and

WHEREAS, labor unions helped build the middle class in this country and continue to lead in the fight to keep and create good jobs; and

WHEREAS, the right to organize is essential to a democracy and no democratic nation denies public or private sector workers the right to join a union and bargain collectively; and

WHEREAS, legislation is pending in several states to strip workers of the right to organize; and

WHEREAS, Wisconsin Governor Scott Walker is attacking the rights of public workers and teachers to engage in collective bargaining, while proposals in other states take away the rights of construction workers and seek to weaken unions by banning the union shop; and
WHEREAS, these attacks are nothing more than an attack on the American middle class;

THEREFORE, be it Resolved by the Southwestern Community College District;

That the Southwestern College Governing Board acknowledges the valuable work done by both public and private sector workers in California and the hard times that all workers are facing in this economy; and be it further

Resolved, that this body reaffirms the legitimacy of every worker’s right to sit down with their employer in an atmosphere of mutual respect, and be it further

Resolved, that workers in all states must have a basic right to organize and bargain collectively in order to revive the economy and maintain and rebuild the middle class, and be it further

Resolved, that this legislative body calls upon all state legislators to respect public employees’ collective bargaining rights, and be it finally

Resolved, that the President of the Southwestern Community College District Governing Board be directed to send a copy of this resolution to Wisconsin Governor Scott Walker, California Governor Jerry Brown, and all state legislators representing areas encompassed by the Southwestern Community College District.

PASSED AND ADOPTED by the Governing Board of the Southwestern Community College District this 13th day of April, 2011, by the following vote to wit:

AYES:

NOES:

ABSENT:

STATE OF CALIFORNIA

) SS

COUNTY OF SAN DIEGO

President of the Governing Board

Secretary of the Governing Board
SPECIAL AND EMERGENCY MEETINGS OF THE GOVERNING BOARD

References: Education Code Section 72129;
Government Code Sections 54956, 54956.5, and 54957

Special meetings may from time to time be called by the President of the Governing Board or upon a call issued in writing and signed by a majority of the Board. Notice of such meetings shall be posted at least 24 hours before the time of the meeting, and shall be noticed in accordance with Brown Act. No business other than that included in the notice may be transacted or discussed.

Emergency meetings may be called by the President of the Governing Board when prompt action is needed because of actual or threatened disruption of public facilities under such circumstances as are permitted by the Brown Act, including work stoppage, crippling disasters, and other activity that severely impairs public health or safety.

No closed session shall be conducted during an emergency meeting, except as provided for in the Brown Act to discuss a dire emergency.

The Superintendent/President shall be responsible to ensure that notice of such meetings is provided to the local news media as required by law.
QUORUM AND VOTING

References: Education Code Sections 72000(d)(3), 81310 et seq., 81365, 81432 and 81511; Government Code Section 53094; Code of Civil Procedure Section 1245.240

A quorum of the Governing Board shall consist of three members.

No Board action shall be taken by secret ballot.

Separation of a compound agenda item into two or more items for separate votes may be requested by any Board member.

No vote shall be taken on any matter before the Governing Board until all Board members have had the opportunity to speak on the matter for up to three (3) minutes, or longer at the discretion of the Board President.

The Governing Board shall act by majority vote of all of the membership of the Governing Board, except as noted below.

The following actions require a majority vote of all members of the Governing Board:

- Resolution of intention to sell or lease real property (except where a unanimous vote is required);
- Resolution of intention to dedicate or convey an easement;
- Resolution authorizing and directing the execution and delivery of a deed;
- Action to declare the District exempt from the approval requirements of a planning commission or other local land use body;
- Appropriation of funds from an undistributed reserve;
- Resolution to condemn real property.

The following actions require a unanimous vote of all members of the Governing Board:

- Resolution authorizing a sale or lease of District real property to the state, any county, city, or to any other school or community college district;
- Resolutions necessary in all other cases as specifically addressed in the law.
Southwestern Community College District PROCEDURE

No. 2715

Governing Board

CODE OF ETHICS

Reference: Accreditation Standard IV.B.1.a, e, and h

The Governing Board is committed to serving the educational needs of all residents of the Southwestern Community College District, and to carrying out its duties in accordance with the highest standards of ethical behavior. The Governing Board shall foster awareness of ethical expectations by:

- Providing the Code of Ethics policy and procedure to all trustees and having them available at Board meetings;
- Including a review of the Code of Ethics when orienting new Board members;
- Assuring the vitality of the Code of Ethics by reviewing, reading and signing the Code of Ethics at its annual retreat;
- Using the Code of Ethics as criteria in the Board self-evaluation process.

The Governing Board has responsibility for monitoring itself, and ensuring that laws and policies are followed. Addressing alleged violations of the Code of Ethics is the responsibility of the Board President or other members identified by the Board.

Complaints of alleged violations of Policy No. 2715 shall be submitted in writing to the Vice President for Human Resources within 90 days of the date the alleged violation becomes known or should have become known. The Vice President for Human Resources shall refer the complaint as received to special legal counsel for review to determine if the complaint has merit. If counsel determines the complaint has merit, counsel shall refer the complaint to the appropriate public agency (i.e., Fair Political Practices Commission, District Attorney, Grand Jury, California Attorney General) for final disposition. The purpose of this procedure is to ensure response to such allegations must uphold the public trust.

Possible violations of the Code of Ethics include, but are not limited to, the following:

- Verbal attacks against any person at a public meeting;
- Publicly advocating against Board decisions after they are made;
- Sabotaging the work of the Board;
- Attempting to administer, rather than govern the District;
- Advocating a single interest instead of the common public good;
- Appearing to be the agent of a union, specific community group, or business interest.

The Governing Board will promptly address any alleged violation by a Board member or Board members of the Code of Ethics in the following manner:

The Superintendent/President and Board President are authorized to consult with legal
CODE OF ETHICS

counsel when they become aware of or are informed about actual or perceived violations of Policy No. 2715, "Code of Ethics." Violations of law may be referred to the District Attorney or Attorney General as provided for in law.

Violations of Board Policy No. 2715, "Code of Ethics," will be addressed by the Board President, who will first discuss the alleged violation with the Board member. If resolution is not achieved and further action is deemed necessary, the President will appoint a two-member ad hoc committee. The committee will initiate a thorough fact-finding process regarding the alleged violation, including interviews with the person making the allegation and the member in question. The committee will recommend further courses of action to the Board. The Board will consider the committee's findings. If the Board determines that the member has not violated Policy No. 2715, the process shall be concluded. If the Board determines that a violation has occurred, sanctions will be determined by the Board. If the Board President is perceived to have committed the violation, the Vice President of the Board is authorized to pursue resolution.
SOUTHWESTERN COLLEGE
COMPARATIVE STATEMENT OF REVENUES and EXPENSES
General Fund - Unrestricted
REPORT ENDING
February 28, 2011

February
2009-10/2010-11

General Fund - Unrestricted

<table>
<thead>
<tr>
<th>Revenues</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>% of 2009-10</th>
<th>% of 2010-11</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$ 85,112</td>
<td>$ 381,925</td>
<td>$ 296,813</td>
<td>$ 85,112</td>
<td>$ 381,925</td>
<td>$ 296,813</td>
<td>$ 64,548</td>
<td>76%</td>
<td>377,584</td>
</tr>
<tr>
<td>State Revenues</td>
<td>$ 52,183,929</td>
<td>$ 54,890,006</td>
<td>$ 2,706,077</td>
<td>$ 52,183,929</td>
<td>$ 54,890,006</td>
<td>$ 2,706,077</td>
<td>$ 33,437,193</td>
<td>64%</td>
<td>54,588,272</td>
</tr>
<tr>
<td>Local Revenues</td>
<td>$ 27,065,095</td>
<td>$ 24,733,355</td>
<td>$ (2,311,740)</td>
<td>$ 27,065,095</td>
<td>$ 24,760,413</td>
<td>$ (2,304,682)</td>
<td>$ 15,281,459</td>
<td>56%</td>
<td>14,699,924</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>$ 175,000</td>
<td>$ 175,000</td>
<td>$ -</td>
<td>$ 175,000</td>
<td>$ 175,000</td>
<td>$ -</td>
<td>$ 136,976</td>
<td>68%</td>
<td>200,176</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$ 79,509,136</td>
<td>$ 80,200,286</td>
<td>$ 691,350</td>
<td>$ 79,509,136</td>
<td>$ 80,200,286</td>
<td>$ 691,350</td>
<td>$ 48,901,776</td>
<td>62%</td>
<td>49,865,966</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Expenses</th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Salaries</td>
<td>$ 39,482,282</td>
<td>$ 37,650,841</td>
<td>$ (2,831,441)</td>
<td>$ 39,474,292</td>
<td>$ 37,102,832</td>
<td>$ (2,371,460)</td>
<td>$ 24,331,703</td>
<td>62%</td>
<td>24,181,175</td>
</tr>
<tr>
<td>Classified and Other Nonacademic Salaries</td>
<td>$ 17,942,161</td>
<td>$ 18,936,587</td>
<td>$ 994,426</td>
<td>$ 18,036,472</td>
<td>$ 19,016,227</td>
<td>$ 980,755</td>
<td>$ 10,925,613</td>
<td>61%</td>
<td>11,882,782</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>$ 12,974,060</td>
<td>$ 13,518,741</td>
<td>$ 544,681</td>
<td>$ 13,474,060</td>
<td>$ 13,453,701</td>
<td>$ (20,359)</td>
<td>$ 8,573,820</td>
<td>66%</td>
<td>8,961,089</td>
</tr>
<tr>
<td>Supplies and Materials</td>
<td>$ 1,792,403</td>
<td>$ 1,912,722</td>
<td>$ 120,319</td>
<td>$ 1,813,290</td>
<td>$ 1,950,053</td>
<td>$ 136,762</td>
<td>$ 878,956</td>
<td>49%</td>
<td>1,004,370</td>
</tr>
<tr>
<td>Other Operating Expenses and Services</td>
<td>$ 9,423,635</td>
<td>$ 9,713,292</td>
<td>$ 289,657</td>
<td>$ 9,273,886</td>
<td>$ 9,678,839</td>
<td>$ 405,953</td>
<td>$ 7,011,360</td>
<td>74%</td>
<td>5,996,470</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$ 1,122,580</td>
<td>$ 1,177,036</td>
<td>$ 54,456</td>
<td>$ 1,042,171</td>
<td>$ 1,130,236</td>
<td>$ 88,065</td>
<td>$ 534,039</td>
<td>48%</td>
<td>265,703</td>
</tr>
<tr>
<td>Other Ongoing</td>
<td>$ 2,106,565</td>
<td>$ 1,075,285</td>
<td>$ (1,031,279)</td>
<td>$ 1,737,365</td>
<td>$ 1,081,588</td>
<td>(665,777)</td>
<td>$ (7,418)</td>
<td>0%</td>
<td>(187,853)</td>
</tr>
<tr>
<td>Total Expenses</td>
<td>$ 84,843,486</td>
<td>$ 83,394,498</td>
<td>$ (1,448,978)</td>
<td>$ 84,843,486</td>
<td>$ 83,493,479</td>
<td>$ (1,350,007)</td>
<td>$ 52,250,873</td>
<td>62%</td>
<td>52,694,936</td>
</tr>
</tbody>
</table>

| Change in Fund Balance       | $ (5,334,350)| $ (5,184,522)| $ 2,149,828| $ (5,334,350)| $ (5,184,522)| $ 2,149,828| $ (3,334,850)| $ 3,184,828 |

2009-10/2010-11
### General Fund - Restricted

#### February 2009-10/2010-11

**SOUTHWESTERN COLLEGE**  
**COMPARATIVE STATEMENT OF REVENUES and EXPENSES**  
**General Fund - Restricted**  
**REPORT ENDING**  
**February 28, 2011**

#### Revenues

<table>
<thead>
<tr>
<th></th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Federal</td>
<td>$3,382,875</td>
<td>$3,549,662</td>
<td>$166,787</td>
<td>$5,570,420</td>
<td>$5,954,529</td>
<td>$(15,881)</td>
</tr>
<tr>
<td>State Revenues</td>
<td>$7,242,138</td>
<td>$4,121,252</td>
<td>$(3,120,886)</td>
<td>$8,377,429</td>
<td>$5,912,036</td>
<td>$(2,465,393)</td>
</tr>
<tr>
<td>Local Revenues</td>
<td>$2,727,711</td>
<td>$2,408,927</td>
<td>$(318,784)</td>
<td>$3,777,848</td>
<td>$4,095,181</td>
<td>$317,336</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$13,352,724</td>
<td>$10,079,841</td>
<td>$(3,272,883)</td>
<td>$18,125,697</td>
<td>$15,951,760</td>
<td>$(2,163,937)</td>
</tr>
</tbody>
</table>

#### Expenses

<table>
<thead>
<tr>
<th></th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Academic Salaries</td>
<td>$3,282,998</td>
<td>$2,203,586</td>
<td>$(1,081,412)</td>
<td>$4,232,031</td>
<td>$2,947,598</td>
<td>$(1,284,433)</td>
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<tr>
<td>Classified and Other Nonacademic Salaries</td>
<td>$4,437,276</td>
<td>$4,174,333</td>
<td>$(263,943)</td>
<td>$6,365,482</td>
<td>$6,396,004</td>
<td>$(30,522)</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>$1,574,110</td>
<td>$1,057,215</td>
<td>$(516,895)</td>
<td>$1,878,475</td>
<td>$1,838,613</td>
<td>$(39,862)</td>
</tr>
<tr>
<td>Supplies and Materials</td>
<td>$777,570</td>
<td>$600,226</td>
<td>$(177,344)</td>
<td>$1,553,943</td>
<td>$1,159,463</td>
<td>$(394,479)</td>
</tr>
<tr>
<td>Other Operating Expenses and Services</td>
<td>$2,463,974</td>
<td>$1,223,096</td>
<td>$(1,240,878)</td>
<td>$2,740,416</td>
<td>$2,503,174</td>
<td>$(237,242)</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$370,483</td>
<td>$269,908</td>
<td>$(100,575)</td>
<td>$529,969</td>
<td>$385,826</td>
<td>$(144,143)</td>
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<tr>
<td>Other Outgo</td>
<td>$626,310</td>
<td>$553,289</td>
<td>$(73,021)</td>
<td>$725,583</td>
<td>$653,083</td>
<td>$(72,500)</td>
</tr>
<tr>
<td>Total Expenses</td>
<td>$13,382,724</td>
<td>$10,079,841</td>
<td>$(3,272,883)</td>
<td>$18,125,697</td>
<td>$15,951,760</td>
<td>$(2,163,937)</td>
</tr>
</tbody>
</table>

#### Change in Fund Balance

<table>
<thead>
<tr>
<th></th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
<td>$-</td>
</tr>
</tbody>
</table>

### Variance

- % of Budget
- % of Budget
- Variance

02/2011  
02/2011
### SOUTHWESTERN COLLEGE
### COMPARATIVE STATEMENT OF REVENUES and EXPENSES
#### General Fund - Unrestrict/Restricted (Combined)
#### Report Ending
#### February 28, 2011

#### February 2009-10/2010-11
#### General Fund - Combined

<table>
<thead>
<tr>
<th></th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
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<tbody>
<tr>
<td><strong>Revenues</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Federal</td>
<td>$3,457,967</td>
<td>$3,931,897</td>
<td>$473,930</td>
<td>$6,055,593</td>
<td>$6,356,644</td>
<td>$301,051</td>
<td>$1,828,037</td>
<td>$2,044,384</td>
<td>$216,347</td>
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<tr>
<td>State Revenues</td>
<td>$59,426,067</td>
<td>$59,811,258</td>
<td>$385,191</td>
<td>$60,581,538</td>
<td>$60,903,635</td>
<td>$322,197</td>
<td>$40,074,691</td>
<td>$39,530,438</td>
<td>$544,253</td>
</tr>
<tr>
<td>Local Revenues</td>
<td>$29,792,806</td>
<td>$27,162,382</td>
<td>($2,630,424)</td>
<td>$30,842,943</td>
<td>$28,355,957</td>
<td>($2,486,986)</td>
<td>$18,516,479</td>
<td>$19,057,150</td>
<td>7%</td>
</tr>
<tr>
<td>Other Revenues</td>
<td>$175,000</td>
<td>$775,000</td>
<td>$600,000</td>
<td>$175,000</td>
<td>$175,000</td>
<td>$0</td>
<td>$650,977</td>
<td>$181,218</td>
<td>-373%</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$92,663,560</td>
<td>$98,293,127</td>
<td>($5,629,567)</td>
<td>$97,634,383</td>
<td>$96,270,717</td>
<td>($1,363,666)</td>
<td>$59,766,228</td>
<td>$60,459,764</td>
<td>2%</td>
</tr>
<tr>
<td><strong>Expenses</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Academic Salaries</td>
<td>$42,765,275</td>
<td>$39,252,397</td>
<td>($3,512,878)</td>
<td>$43,072,782</td>
<td>$40,050,430</td>
<td>($3,022,352)</td>
<td>$26,667,207</td>
<td>$26,244,781</td>
<td>67%</td>
</tr>
<tr>
<td>Classified and Other Nonacademic Salaries</td>
<td>$22,399,437</td>
<td>$23,111,140</td>
<td>$711,693</td>
<td>$23,671,954</td>
<td>$25,412,201</td>
<td>$1,740,247</td>
<td>$14,400,615</td>
<td>$15,291,803</td>
<td>66%</td>
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<tr>
<td>Employee Benefits</td>
<td>$14,348,170</td>
<td>$14,375,956</td>
<td>$277,786</td>
<td>$15,450,556</td>
<td>$15,290,314</td>
<td>($160,242)</td>
<td>$9,836,069</td>
<td>$10,219,389</td>
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</tr>
<tr>
<td>Supplies and Materials</td>
<td>$2,569,981</td>
<td>$2,512,948</td>
<td>($57,033)</td>
<td>$3,365,171</td>
<td>$3,189,517</td>
<td>($175,654)</td>
<td>$1,457,098</td>
<td>$1,551,038</td>
<td>6%</td>
</tr>
<tr>
<td>Other Operating Expenses and Services</td>
<td>$11,887,609</td>
<td>$10,936,388</td>
<td>($951,221)</td>
<td>$12,017,971</td>
<td>$12,182,013</td>
<td>$164,042</td>
<td>$8,155,225</td>
<td>$6,749,958</td>
<td>62%</td>
</tr>
<tr>
<td>Capital Outlay</td>
<td>$1,493,063</td>
<td>$1,446,544</td>
<td>($46,519)</td>
<td>$1,572,021</td>
<td>$1,574,062</td>
<td>$2,041</td>
<td>$851,281</td>
<td>$415,188</td>
<td>29%</td>
</tr>
<tr>
<td>Other Outgo</td>
<td>$2,732,675</td>
<td>$1,628,078</td>
<td>($1,104,597)</td>
<td>$2,482,748</td>
<td>$1,734,672</td>
<td>($748,076)</td>
<td>$442,294</td>
<td>$421,881</td>
<td>16%</td>
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<tr>
<td>Total Expenses</td>
<td>$98,194,210</td>
<td>$93,464,649</td>
<td>($4,729,561)</td>
<td>$102,969,183</td>
<td>$99,455,239</td>
<td>($3,513,944)</td>
<td>$41,793,889</td>
<td>$60,583,939</td>
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</tbody>
</table>

**SOUTHWESTERN COLLEGE**

**COMPARATIVE STATEMENT OF REVENUES**

**GENERAL FUND - Unrestricted/Restricted (Combined)**

Report Ending  
February 20, 2011

### General Fund - Combined Revenues

<table>
<thead>
<tr>
<th></th>
<th>2009-10 Budget</th>
<th>2010-11 Budget</th>
<th>Variance</th>
<th>2009-10 Budget</th>
<th>2010-11 Budget</th>
<th>Variance</th>
<th>2009-10 % of Budget</th>
<th>2010-11 % of Budget</th>
<th>Variance % of Budget</th>
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<tbody>
<tr>
<td><strong>Federal</strong></td>
<td></td>
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<td></td>
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<tr>
<td>National Science Foundation</td>
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<td>$ 429,076</td>
<td>$ 429,076</td>
<td>$ 690,883</td>
<td>$ 457,076</td>
<td>$ 233,809</td>
<td>$ 212,635 0%</td>
<td>$ 177,908 42%</td>
<td>$ (34,695)</td>
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<td>Vet Ed Outreach Program</td>
<td>$ 466,820</td>
<td>$ 479,463</td>
<td>$ 12,633</td>
<td>$ 436,856</td>
<td>$ 479,463</td>
<td>$ 42,607</td>
<td>$ 175,550 38%</td>
<td>$ 267,797 56%</td>
<td>$ 92,247</td>
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<td>Workforce</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
</tr>
<tr>
<td>Military Personal Development</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<td>Federal Student Financial Aid</td>
<td>$ 60,112</td>
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<td>$ (60,112)</td>
<td>$ 60,112</td>
<td>$ -</td>
<td>$ (60,112)</td>
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<tr>
<td>FWS Admin Allowance</td>
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<td>$ 22,723</td>
<td>$ 22,723</td>
<td>$ -</td>
<td>$ 22,723</td>
<td>$ 22,723</td>
<td>$ 8,078 0%</td>
<td>$ 11,216 49%</td>
<td>$ 3,138</td>
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<tr>
<td>Admin Allo-FELL</td>
<td>$ -</td>
<td>$ 21,795</td>
<td>$ 21,795</td>
<td>$ -</td>
<td>$ 21,795</td>
<td>$ 21,795</td>
<td>$ 3,570 0%</td>
<td>$ 7,160 33%</td>
<td>$ 3,590</td>
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<td>$ 13,567</td>
<td>$ -</td>
<td>$ 13,567</td>
<td>$ 13,567</td>
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<tr>
<td>Veteran Services</td>
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<td>$ -</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<td>VTEA/Career Tech Education</td>
<td>$ 1,542,379</td>
<td>$ 1,720,272</td>
<td>$ 177,893</td>
<td>$ 1,627,280</td>
<td>$ 1,748,635</td>
<td>$ 121,355</td>
<td>$ 473,688 21%</td>
<td>$ 503,822 43%</td>
<td>$ 30,134</td>
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<td>$ -</td>
<td>$ 127,907</td>
<td>$ 127,907</td>
<td>$ -</td>
<td>$ 120,555</td>
<td>$ 7,352</td>
<td>$ 440,798 0%</td>
<td>$ 126,969 84%</td>
<td>$ (313,829)</td>
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<tr>
<td>Other Federal Revenue</td>
<td>$ 3,988,664</td>
<td>$ 4,467,480</td>
<td>$ 478,816</td>
<td>$ 3,907,128</td>
<td>$ 3,895,690</td>
<td>$ 11,438</td>
<td>$ 505,680 36%</td>
<td>$ 962,497 58%</td>
<td>$ (456,817)</td>
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<tr>
<td><strong>Total Federal Revenues</strong></td>
<td>$ 5,467,097</td>
<td>$ 6,031,857</td>
<td>$ 564,760</td>
<td>$ 6,095,339</td>
<td>$ 6,236,664</td>
<td>$ 141,325</td>
<td>$ 1,828,098</td>
<td>$ 2,044,584</td>
<td>$ 216,486</td>
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</tbody>
</table>

| State Revenues             |                |                |          |                |                |          |                     |                     |                     |
| 58133 Settlement          | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ -                  | $ -                  | $ -                 |
| PTAC Rambler              | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ -                  | $ -                  | $ -                 |
| Two Percent Beggs         | $ 77,550       | $ 77,550       | $ -       | $ 77,550       | $ 77,550       | $ -       | $ 56,452 72%        | $ 71,087 92%         | $ 4,635             |
| State Career Tech Edu     | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ -                  | $ -                  | $ -                 |
| Return to Title IV        | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ -                  | $ -                  | $ -                 |
| Growth Appropriation       | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ -                  | $ -                  | $ -                 |
| State General Appropriation| $ 541,166      | $ 268,224      | $ (272,942)| $ 341,166      | $ 268,224      | $ (72,942)| $ 171,773 35%       | $ 163,534 61%        | $ (8,243)           |
| Principal State Appropriation| $ 49,799,916 | $ 52,614,514  | $ 2,814,608| $ 49,799,916 | $ 52,614,514  | $ 2,814,608| $ 30,837,198 12%    | $ 33,079,617 12%   | $ 2,242,420         |
| Prior Year Gas. Appor      | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ -                  | $ -                  | $ -                 |
| Basic Skills Growth        | $ 1,576,346    | $ 50,000       | $ (1,526,346)| $ 1,807,056    | $ 931,885      | $ (895,171)| $ 1,937,065 123%    | $ 806,163 161%       | $ (1,130,882)       |
| S&V Other One Time Funds   | $ -            | $ -            | $ -       | $ -            | $ -            | $ -       | $ (9)                | $ -                  | $ 0                 |
| PT Faculty Parity          | $ 276,667      | $ 201,191      | $ (75,476)| $ 276,667      | $ 201,191      | $ (75,476)| $ 223,568 81%       | $ 228,922 114%       | $ 5,354             |
| Other General Appropriation| $ 442,909      | $ 210,661      | $ (232,248)| $ 375,177      | $ 564,238      | $ (189,061)| $ 432,694 49%       | $ 452,718 215%       | $ 20,024            |
| BOR/Payment                | $ 185,485      | $ -            | $ (185,485)| $ 146,180      | $ 28,048       | $ (118,132)| $ 197,212 58%       | $ 106,642 0%         | $ (2,570)           |
| Ext. Oppt. Fxns/SVC        | $ 1,823,562    | $ 1,309,604    | $ (514,958)| $ 1,727,881    | $ 1,558,699    | $ (169,182)| $ 1,268,042 70%     | $ 1,029,561 78%     | $ (244,481)         |
| Phy Mand Execr Cost        | $ 1,445,708    | $ 898,293      | $ (547,415)| $ 1,305,008    | $ 856,649      | $ (448,359)| $ 664,788 46%       | $ 587,241 65%        | $ (77,547)          |

| District Match             | $ -            | $ 30,000       | $ 30,000  | $ -            | $ 177,345      | $ 177,345  | $ -                  | $ -                  | $ -                 |
## General Fund - Combined Revenues

<table>
<thead>
<tr>
<th></th>
<th>Reported Budgets</th>
<th>Revised Budgets</th>
<th>Variances</th>
<th>Reported Actuals</th>
<th>Revised Actuals</th>
<th>Variances</th>
<th>2010-11 Budget</th>
<th>% of 2010-11 Budget</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2009-10</td>
<td>2010-11</td>
<td></td>
<td>2009-10</td>
<td>2010-11</td>
<td></td>
<td>2009-10</td>
<td>2010-11</td>
<td></td>
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<tr>
<td>Other Categorical Apportionment</td>
<td>$595,762</td>
<td>$627,553</td>
<td>$30,791</td>
<td>$795,666</td>
<td>$838,818</td>
<td>$(156,948)</td>
<td>$877,496</td>
<td>160%</td>
<td>$(174,299)</td>
</tr>
<tr>
<td>Maintenance</td>
<td>$741,730</td>
<td>$731,969</td>
<td>$(9,761)</td>
<td>$746,376</td>
<td>$750,065</td>
<td>$(3,689)</td>
<td>$752,313</td>
<td>77%</td>
<td>$(19,672)</td>
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<tr>
<td>AB 1725 Afirm Act</td>
<td>$15,049</td>
<td>$15,049</td>
<td>$0</td>
<td>$15,409</td>
<td>$45,128</td>
<td>$(29,719)</td>
<td>$29,006</td>
<td>193%</td>
<td>$(5,194)</td>
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<tr>
<td>State Grant</td>
<td>$3,500</td>
<td>$14,079</td>
<td>$(10,579)</td>
<td>$3,500</td>
<td>$14,079</td>
<td>$(10,579)</td>
<td>$144,856</td>
<td>0%</td>
<td>$(10,727)</td>
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<tr>
<td>Tax Relief Subtract</td>
<td>$245,582</td>
<td>$196,751</td>
<td>$(48,831)</td>
<td>$245,582</td>
<td>$196,751</td>
<td>$(48,831)</td>
<td>$59,102</td>
<td>40%</td>
<td>$(3,211)</td>
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<tr>
<td>Lottery Proceeds</td>
<td>$1,784,214</td>
<td>$1,800,000</td>
<td>$15,786</td>
<td>$1,909,524</td>
<td>$1,911,231</td>
<td>$(1,707)</td>
<td>$936,286</td>
<td>52%</td>
<td>$(47,269)</td>
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<td>FY Lottery Proceeds</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$2,440</td>
<td>0%</td>
<td>$(566,558)</td>
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<tr>
<td>State Mandated Costs</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>0%</td>
<td>$(710,980)</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$75,352</td>
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<td>Motor License Fee</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$8,528</td>
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<tr>
<td>Other State Revenues</td>
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<td>$(71,023)</td>
<td>$328,332</td>
<td>$39,440</td>
<td>$(288,892)</td>
<td>$29,734</td>
<td>112%</td>
<td>$(8,767)</td>
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<tr>
<td><strong>Total State Revenues</strong></td>
<td><strong>$59,426,067</strong></td>
<td><strong>$59,031,526</strong></td>
<td><strong>$(344,540)</strong></td>
<td><strong>$60,549,600</strong></td>
<td><strong>$60,805,698</strong></td>
<td><strong>$(256,098)</strong></td>
<td><strong>$40,074,699</strong></td>
<td><strong>$39,530,489</strong></td>
<td><strong>$(544,210)</strong></td>
</tr>
</tbody>
</table>

### Local Revenues

<table>
<thead>
<tr>
<th></th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Balance</td>
<td>$ -</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<td>$ -</td>
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<tr>
<td>Redemption Payments</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<td>$ -</td>
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<tr>
<td>Secured Rail Taxes</td>
<td>$18,740,151</td>
<td>$17,634,009</td>
<td>$(1,106,142)</td>
<td>$18,740,151</td>
<td>$17,634,009</td>
<td>$(1,106,142)</td>
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<td>44%</td>
<td>$(3,705,417)</td>
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<tr>
<td>Unsecured Rail Taxes</td>
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<td>$176,281</td>
<td>$(144,253)</td>
<td>$320,534</td>
<td>$176,281</td>
<td>$(144,253)</td>
<td>$66,387</td>
<td>21%</td>
<td>$(54,146)</td>
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<tr>
<td>Prior Year Taxes</td>
<td>$725,309</td>
<td>$725,682</td>
<td>$(3,373)</td>
<td>$725,309</td>
<td>$725,682</td>
<td>$(3,373)</td>
<td>$703,788</td>
<td>97%</td>
<td>$(4,166)</td>
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<tr>
<td>2% Pass Through</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<tr>
<td>Property Tax Backfill</td>
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<td>$(56,634)</td>
<td>$ -</td>
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<td>$(56,634)</td>
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<td>$4,205</td>
<td>$ -</td>
<td>$4,205</td>
<td>$4,205</td>
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<td>$ -</td>
<td>$ -</td>
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<td>$907</td>
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<tr>
<td>GF: Student Loan/Overaged Claims</td>
<td>$ -</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$12,364</td>
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<tr>
<td>GF: Overage Warrant/Payroll</td>
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<td>$ -</td>
<td>$ -</td>
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<td>$171</td>
<td>0%</td>
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<td>Individual Service Contracts</td>
<td>$123,553</td>
<td>$(123,553)</td>
<td>$0</td>
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<td>$78,564</td>
<td>$(224,635)</td>
<td>$394,271</td>
<td>319%</td>
<td>$(54,909)</td>
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<tr>
<td>Sales</td>
<td>$39,033</td>
<td>$55,534</td>
<td>$(16,501)</td>
<td>$39,033</td>
<td>$55,534</td>
<td>$(16,501)</td>
<td>$151,162</td>
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<td>$10,000</td>
<td>$10,000</td>
<td>$(0)</td>
<td>$1,228</td>
<td>12%</td>
<td>$(8,772)</td>
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<td>Cash Over</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$925</td>
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<td>CDC Rental</td>
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<td>$75,000</td>
<td>$(20,000)</td>
<td>$95,000</td>
<td>$75,000</td>
<td>$(20,000)</td>
<td>$56,261</td>
<td>59%</td>
<td>$(38,739)</td>
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<tr>
<td>Game Room Income</td>
<td>$10,000</td>
<td>$10,000</td>
<td>$(0)</td>
<td>$10,000</td>
<td>$10,000</td>
<td>$(0)</td>
<td>$8,621</td>
<td>86%</td>
<td>$(1,379)</td>
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<td></td>
<td></td>
<td></td>
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### February 2009-10/2010-11

**General Fund - Combined Revenues**

<table>
<thead>
<tr>
<th>Description</th>
<th>Adopted Budgets</th>
<th>Revised Budgets</th>
<th>% Variance</th>
<th>% of Budget</th>
<th>% of Projected Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>2009-10</td>
<td>2010-11</td>
<td>2009-10</td>
<td>2010-11</td>
<td>2009-10</td>
</tr>
<tr>
<td>Facility Use Fee</td>
<td>$ 265,557</td>
<td>$ 100,000</td>
<td>(165,557)</td>
<td>$ 205,557</td>
<td>$ (60,000)</td>
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<tr>
<td>Interest Earned</td>
<td>$ 375,000</td>
<td>$ 150,000</td>
<td>(225,000)</td>
<td>$ 150,000</td>
<td>$ (225,000)</td>
</tr>
<tr>
<td>Community Services</td>
<td>$ -</td>
<td>$ 87,583</td>
<td>$ 87,583</td>
<td>$ 126,197</td>
<td>$ 38,614</td>
</tr>
<tr>
<td>Enrollment Fees</td>
<td>$ 5,199,508</td>
<td>$ 4,512,749</td>
<td>(686,759)</td>
<td>$ 4,912,749</td>
<td>$ 799,798</td>
</tr>
<tr>
<td>Health Fee</td>
<td>$ 631,358</td>
<td>$ 690,616</td>
<td>59,258</td>
<td>$ 690,616</td>
<td>99,258</td>
</tr>
<tr>
<td>Other Student Fees</td>
<td>$ 60,000</td>
<td>$ 60,000</td>
<td>0</td>
<td>$ 60,000</td>
<td>0</td>
</tr>
<tr>
<td>Tuition Fee</td>
<td>$ 980,000</td>
<td>$ 600,000</td>
<td>(380,000)</td>
<td>$ 600,000</td>
<td>(380,000)</td>
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<tr>
<td>Parking Services Fee</td>
<td>$ 800,000</td>
<td>$ 600,000</td>
<td>(200,000)</td>
<td>$ 600,000</td>
<td>(200,000)</td>
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<tr>
<td>Credit By Exam</td>
<td>$ 2,500</td>
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<td>500</td>
<td>$ 2,000</td>
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<tr>
<td>Course Audit</td>
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<td>$ 2,000</td>
<td>2,000</td>
<td>$ -</td>
<td>2,000</td>
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<tr>
<td>Local Revenue Misc.</td>
<td>$ -</td>
<td>$ -</td>
<td>-</td>
<td>$ -</td>
<td>-</td>
</tr>
<tr>
<td>Fees and Collection Charges</td>
<td>$ 200,000</td>
<td>$ 214,002</td>
<td>14,002</td>
<td>$ 251,387</td>
<td>(51,387)</td>
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<tr>
<td>Gifts</td>
<td>$ -</td>
<td>$ -</td>
<td>-</td>
<td>$ -</td>
<td>-</td>
</tr>
<tr>
<td>Midship Termi Charge</td>
<td>$ -</td>
<td>$ -</td>
<td>-</td>
<td>$ -</td>
<td>-</td>
</tr>
<tr>
<td>Local Miscellaneous Income</td>
<td>$ 942,564</td>
<td>$ 640,598</td>
<td>(301,766)</td>
<td>$ 1,524,938</td>
<td>454,384</td>
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<td>Transfer In Staff Parking</td>
<td>$ 10,000</td>
<td>$ 10,000</td>
<td>0</td>
<td>$ 10,000</td>
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<tr>
<td>Total Local Revenues</td>
<td>$ 29,792,806</td>
<td>$ 27,163,282</td>
<td>(2,630,524)</td>
<td>$ 28,855,579</td>
<td>(1,987,247)</td>
</tr>
<tr>
<td>Other Revenues</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>(Transfers In)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Transfer In - Booksale</td>
<td>$ 275,000</td>
<td>$ 175,000</td>
<td>-</td>
<td>$ 175,000</td>
<td>-</td>
</tr>
<tr>
<td>Transfers In</td>
<td>$ -</td>
<td>$ -</td>
<td>-</td>
<td>$ -</td>
<td>-</td>
</tr>
<tr>
<td>Board Reserve</td>
<td>$ -</td>
<td>$ -</td>
<td>-</td>
<td>$ -</td>
<td>-</td>
</tr>
<tr>
<td>Revenue Suspense</td>
<td>$ -</td>
<td>$ -</td>
<td>-</td>
<td>$ -</td>
<td>-</td>
</tr>
<tr>
<td>Total Other Revenues</td>
<td>$ 275,000</td>
<td>$ 175,000</td>
<td>-</td>
<td>$ 175,000</td>
<td>-</td>
</tr>
<tr>
<td>Total Revenues</td>
<td>$ 29,567,840</td>
<td>$ 29,338,277</td>
<td>(2,229,573)</td>
<td>$ 29,030,717</td>
<td>(532,133)</td>
</tr>
</tbody>
</table>

SOUTHWESTERN COLLEGE
COMPARATIVE STATEMENT OF REVENUES
GENERAL FUND - Unrestricted/Restricted (Combined)
Report Ending
February 2011

© 2011 Southwestern College

6
### General Fund - Combined Expenses

<table>
<thead>
<tr>
<th>Expenses</th>
<th>Adopted Budgets</th>
<th>% of Budget</th>
<th>Revised Budgets</th>
<th>% of Budget</th>
<th>To Actuals</th>
<th>% of Budget</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>2009-10</strong></td>
<td></td>
<td></td>
<td><strong>2010-11</strong></td>
<td></td>
<td><strong>2010-11</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Academic Salaries - Contract</td>
<td>$19,388,000</td>
<td>$18,333,679</td>
<td>$19,412,383</td>
<td>$18,590,365</td>
<td>($117,982)</td>
<td>$12,705,886</td>
<td>$787,657</td>
</tr>
<tr>
<td>Academic/Non Instructional Contract Salaries</td>
<td>$7,669,746</td>
<td>$7,037,049</td>
<td>$7,921,281</td>
<td>$7,214,787</td>
<td>($706,494)</td>
<td>$4,795,315</td>
<td>$1,892,547</td>
</tr>
<tr>
<td>Academic Salaries - Hourly</td>
<td>$14,342,288</td>
<td>$12,604,969</td>
<td>$14,474,089</td>
<td>$12,718,783</td>
<td>($1,645,990)</td>
<td>$8,146,684</td>
<td>75%</td>
</tr>
<tr>
<td>Academic/Non Instructional Hourly</td>
<td>$1,365,251</td>
<td>$1,276,600</td>
<td>$1,393,029</td>
<td>$1,536,495</td>
<td>($143,484)</td>
<td>$999,422</td>
<td>73%</td>
</tr>
<tr>
<td>Classified Salaries - Contract</td>
<td>$19,530,429</td>
<td>$20,270,095</td>
<td>$20,655,343</td>
<td>$21,428,273</td>
<td>($772,930)</td>
<td>$12,640,605</td>
<td>65%</td>
</tr>
<tr>
<td>Classified Non-Instructional Hourly</td>
<td>$2,004,465</td>
<td>$2,032,685</td>
<td>$2,051,552</td>
<td>$2,012,045</td>
<td>($39,507)</td>
<td>$1,354,666</td>
<td>66%</td>
</tr>
<tr>
<td>Classified Instructional Hourly</td>
<td>$864,573</td>
<td>$808,360</td>
<td>$1,085,059</td>
<td>$1,061,012</td>
<td>($24,047)</td>
<td>$475,343</td>
<td>57%</td>
</tr>
<tr>
<td>Employee Benefits</td>
<td>$14,540,170</td>
<td>$14,575,956</td>
<td>$15,452,536</td>
<td>$15,282,214</td>
<td>($170,222)</td>
<td>$9,800,046</td>
<td>68%</td>
</tr>
<tr>
<td>Text Books</td>
<td>$23,070</td>
<td>$24,870</td>
<td>$25,792</td>
<td>$25,092</td>
<td>($700)</td>
<td>$20,036</td>
<td>87%</td>
</tr>
<tr>
<td>Books or Manuals</td>
<td>$76,634</td>
<td>$67,172</td>
<td>$80,508</td>
<td>$69,259</td>
<td>($11,249)</td>
<td>$16,171</td>
<td>21%</td>
</tr>
<tr>
<td>Supplies and Materials</td>
<td>$1,414,515</td>
<td>$1,442,038</td>
<td>$1,692,073</td>
<td>$1,600,425</td>
<td>($91,648)</td>
<td>$766,141</td>
<td>54%</td>
</tr>
<tr>
<td>Miscellaneous Operating Expenses</td>
<td>$399,628</td>
<td>$285,287</td>
<td>$555,113</td>
<td>$535,770</td>
<td>($19,343)</td>
<td>$368,591</td>
<td>77%</td>
</tr>
<tr>
<td>Printing &amp; Other</td>
<td>$502,712</td>
<td>$561,420</td>
<td>$643,565</td>
<td>$692,909</td>
<td>($49,344)</td>
<td>$225,122</td>
<td>45%</td>
</tr>
<tr>
<td>Merchant Write-Offs</td>
<td>$43,589</td>
<td>$26,309</td>
<td>$39,280</td>
<td>$26,888</td>
<td>($12,392)</td>
<td>$12,838</td>
<td>29%</td>
</tr>
<tr>
<td>Supplies</td>
<td>$109,972</td>
<td>$110,901</td>
<td>$256,043</td>
<td>$299,174</td>
<td>($43,131)</td>
<td>$188,199</td>
<td>98%</td>
</tr>
<tr>
<td>Contract Services</td>
<td>$1,766,661</td>
<td>$2,005,903</td>
<td>$2,693,810</td>
<td>$2,996,606</td>
<td>($302,796)</td>
<td>$1,312,613</td>
<td>77%</td>
</tr>
<tr>
<td>Classified Travel</td>
<td>$613,849</td>
<td>$719,762</td>
<td>$817,943</td>
<td>$912,865</td>
<td>($94,922)</td>
<td>$269,665</td>
<td>44%</td>
</tr>
<tr>
<td>Dues Memberships</td>
<td>$145,445</td>
<td>$147,319</td>
<td>$152,930</td>
<td>$158,514</td>
<td>($5,584)</td>
<td>$78,744</td>
<td>54%</td>
</tr>
</tbody>
</table>

**February 2009-10/2010-11**

**SOUTHWESTERN COLLEGE**

**COMPARATIVE STATEMENT OF EXPENSES**

General Fund - Unrestricted/Restricted (Combined)

**REPORT ENDING**

February 25, 2011
# SOUTHWESTERN COLLEGE
## COMPARATIVE STATEMENT OF EXPENSES
### General Fund - Unrestricted/Restricted (Combined)
### REPORT ENDING
#### February 20-2011

**General Fund - Combined Expenses**

<table>
<thead>
<tr>
<th>Expenses</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>2009-10</th>
<th>2010-11</th>
<th>Variance</th>
<th>% of Budget 2009-10</th>
<th>% of Budget 2010-11</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Insurance</strong></td>
<td>$926,831</td>
<td>$936,831</td>
<td>$10,000</td>
<td>$926,831</td>
<td>$936,831</td>
<td>$10,000</td>
<td>$843,363 91%</td>
<td>$958,941 102%</td>
<td>$115,578</td>
</tr>
<tr>
<td><strong>Phone Costs/Utilities</strong></td>
<td>$3,096,415</td>
<td>$2,780,314</td>
<td>$(316,101)</td>
<td>$3,114,271</td>
<td>$2,761,410</td>
<td>$(352,861)</td>
<td>$2,903,178 94%</td>
<td>$1,485,134 53%</td>
<td>$(1,418,044)</td>
</tr>
<tr>
<td><strong>Maintenance Contracts</strong></td>
<td>$3,604,991</td>
<td>$3,138,832</td>
<td>$(466,159)</td>
<td>$3,074,085</td>
<td>$3,094,007</td>
<td>$20,922</td>
<td>$2,482,153 83%</td>
<td>$2,389,867 76%</td>
<td>$(92,286)</td>
</tr>
<tr>
<td><strong>Employee Addls/Litigation</strong></td>
<td>$551,249</td>
<td>$527,249</td>
<td>$(24,000)</td>
<td>$533,749</td>
<td>$629,188</td>
<td>$95,439</td>
<td>$196,501 36%</td>
<td>$346,035 66%</td>
<td>$(149,534)</td>
</tr>
<tr>
<td><strong>Postage</strong></td>
<td>$1,986,813</td>
<td>$578,095</td>
<td>$(1,408,718)</td>
<td>$728,586</td>
<td>$668,779</td>
<td>$(59,807)</td>
<td>$72,992  4%</td>
<td>$127,853 22%</td>
<td>$(54,861)</td>
</tr>
<tr>
<td><strong>Other Operating Expenses</strong></td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -  0%</td>
<td>$ -       0%</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Indirect and Other</strong></td>
<td>$(243,489)</td>
<td>$102,286</td>
<td>$145,205</td>
<td>$(24,831)</td>
<td>$224,514</td>
<td>$250,045</td>
<td>$(3,685) 5%</td>
<td>$(3,785) -3%</td>
<td>$(102)</td>
</tr>
<tr>
<td><strong>Sites and Site Improvement</strong></td>
<td>$55,130</td>
<td>$55,130</td>
<td>$0</td>
<td>$55,130</td>
<td>$55,130</td>
<td>$0</td>
<td>$28,451 52%</td>
<td>$6,360 8%</td>
<td>$(22,871)</td>
</tr>
<tr>
<td><strong>Buildings</strong></td>
<td>$92,841</td>
<td>$92,841</td>
<td>$0</td>
<td>$92,841</td>
<td>$92,841</td>
<td>$0</td>
<td>$41,051 44%</td>
<td>$63,091 65%</td>
<td>$(22,040)</td>
</tr>
<tr>
<td><strong>Books &amp; Book Abatement</strong></td>
<td>$121,117</td>
<td>$74,997</td>
<td>$(46,120)</td>
<td>$96,551</td>
<td>$74,222</td>
<td>$(22,329)</td>
<td>$45,585 50%</td>
<td>$45,580 61%</td>
<td>$(5,055)</td>
</tr>
<tr>
<td><strong>Equipment</strong></td>
<td>$1,223,975</td>
<td>$1,223,975</td>
<td>$0</td>
<td>$1,327,499</td>
<td>$1,351,269</td>
<td>$23,770</td>
<td>$735,094 60%</td>
<td>$332,020 25%</td>
<td>$(403,074)</td>
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<tr>
<td><strong>Debt Retirement</strong></td>
<td>$ -</td>
<td>$100,000</td>
<td>$100,000</td>
<td>$ -</td>
<td>$100,000</td>
<td>$0</td>
<td>$ -       0%</td>
<td>$(100,000) -100%</td>
<td>$(100,000)</td>
</tr>
<tr>
<td><strong>Interfund Transfers</strong></td>
<td>$195,000</td>
<td>$216,000</td>
<td>$21,000</td>
<td>$495,000</td>
<td>$216,000</td>
<td>$(279,000)</td>
<td>$ -       0%</td>
<td>$-       0%</td>
<td>$ -</td>
</tr>
<tr>
<td><strong>Student Financial Aid</strong></td>
<td>$1,063</td>
<td>$10,063</td>
<td>$9,000</td>
<td>$2,063</td>
<td>$10,063</td>
<td>$8,000</td>
<td>$14,066 146%</td>
<td>$7,063 70%</td>
<td>$(7,003)</td>
</tr>
<tr>
<td><strong>Other Payments to Students</strong></td>
<td>$731,248</td>
<td>$833,226</td>
<td>$(102,022)</td>
<td>$800,520</td>
<td>$723,620</td>
<td>$(76,900)</td>
<td>$442,163 63%</td>
<td>$525,362 112%</td>
<td>$(83,200)</td>
</tr>
<tr>
<td><strong>Golden Handshake</strong></td>
<td>$1,835,365</td>
<td>$745,589</td>
<td>$(1,089,776)</td>
<td>$1,185,365</td>
<td>$702,989</td>
<td>$(482,376)</td>
<td>$(1,425,760) -1%</td>
<td>$(6,544) -1%</td>
<td>$(1,419)</td>
</tr>
</tbody>
</table>

**TOTAL EXPENSES**

| $98,196,211 | $95,466,649 | $(2,729,562)| $102,949,184| $99,455,599 | $(3,493,585)| $61,793,887 | $60,859,299 | $(904,588) |
## Southwestern Community College District
### General Fund Cash Analysis
#### For Period Ending February 28, 2011

<table>
<thead>
<tr>
<th></th>
<th>July</th>
<th>August</th>
<th>September*</th>
<th>October</th>
<th>November</th>
<th>December</th>
<th>January</th>
<th>February</th>
</tr>
</thead>
<tbody>
<tr>
<td>Beginning Cash</td>
<td>$11,743,382</td>
<td>$16,189,583</td>
<td>$11,784,038</td>
<td>$4,926,118</td>
<td>$20,407,274</td>
<td>$19,161,372</td>
<td>$21,486,531</td>
<td>$17,844,305</td>
</tr>
<tr>
<td>Deposits</td>
<td>$12,831,291</td>
<td>$4,479,576</td>
<td>$7,761,594</td>
<td>$24,453,844</td>
<td>$13,235,175</td>
<td>$11,740,301</td>
<td>$5,282,808</td>
<td>$8,739,403</td>
</tr>
<tr>
<td>Cash Available</td>
<td>$24,574,673</td>
<td>$20,669,159</td>
<td>$19,545,632</td>
<td>$29,379,966</td>
<td>$33,642,449</td>
<td>$30,901,673</td>
<td>$26,769,339</td>
<td>$26,583,708</td>
</tr>
<tr>
<td>Expenditures</td>
<td>$(8,385,090)</td>
<td>$(8,885,121)</td>
<td>$(14,619,514)</td>
<td>$(8,972,692)</td>
<td>$(14,481,077)</td>
<td>$(9,415,141)</td>
<td>$(8,925,034)</td>
<td>$(8,432,929)</td>
</tr>
<tr>
<td>Month Ending Balance</td>
<td>$16,189,583</td>
<td>$11,784,038</td>
<td>$4,926,118</td>
<td>$20,407,274</td>
<td>$19,161,372</td>
<td>$21,486,531</td>
<td>$17,844,305</td>
<td>$16,189,779</td>
</tr>
</tbody>
</table>

### Cash Flow

Cash flow refers to the amount of cash received and spent by a business or organization during a defined period of time. It is usually reviewed on monthly, quarterly, or annual bases.

Cash received (Deposits) are the source of income and cash outlay (Expenditures) are the resources used for operating expenses.

### Note

This cash report includes Governing Board reserves which were not included in the prior year's cash reports.
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Appendix A: Technology Master Plan 2005-2010
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Table 4: SWC Technology Master Plan Implementation Grid
INTRODUCTION

The SWC Technology Master Plan 2011-2015 is a guide to the allocation and use of technology resources in support of student learning and institutional effectiveness at Southwestern College. The purpose of the plan is to further the mission, vision, and strategic direction of the college. It will be reviewed on an annual basis as it is integrated with Institutional Planning and Program Review.

SWC MISSION

Southwestern Community College District serves a diverse community of students by providing a wide range of dynamic and high quality educational programs and comprehensive student services.

The District provides educational opportunities in the following areas:

- Associate degree and certificate programs
- Transfer
- Professional, technical, and career advancement
- Basic skills
- Personal enrichment
- Non-credit adult education
- Community services
- Economic, workforce, and community development

We promote student learning and success by committing to continuous improvement that includes planning, implementation, assessment, and evaluation.

TECHNOLOGY PLANNING PROCESS

Building upon the 1993-1998, 1999-2004, and 2005-2010\textsuperscript{1} plans, the SWC Technology Master Plan 2011-2015 is significantly different from previous plans. The 2011-2015 Plan is the product of a campus-wide dialogue, based on collaborative research, shared planning and decision-making and is integrated into the work of the Shared Consultation Committee. Since 1993, the College was actively involved in the planning process. Where the College fell short was in comprehensive implementation and evaluation. To ensure that not all relevant actions previously listed were ignored, the SWC Technology Master Plan 2011-2015 includes significant parts of the previous plans that serve as a foundation for the next five years.

During spring and fall 2010 semesters, members of the Accreditation Oversight Committee Work Group 6 coordinated the Technology Plan development process. The College also engaged the consulting firm WTC Consulting, Inc. to assist the Work Group with development of the Information Technology (IT) Assessment Final Report (Appendix C). Work Group 6, however, suffered from

\textsuperscript{1} Appendix A
2011-2015 Technology Plan

leadership problems and the goals of the work group were not met. As a result, in February 2011, the Superintendent/President disbanded Work Group 6 and instituted the Technology Task Team. This Task Team was charged with integrating the 2011-2015 Master Plan with institutional organizational structures, program reviews, and to create a document that would reflect the current and future technology needs of the College. This team operated as a shared planning and decision-making body, and included key constituent groups from across the campus.

As part of development process, a number of open forums and meetings were conducted with faculty and staff. Table 1 evidences the scheduling and groups contacted for these information-gathering sessions.
<table>
<thead>
<tr>
<th>Group</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multiple Open Forums for Faculty, Staff, and Students</td>
<td>May 3, 2010</td>
</tr>
<tr>
<td>Council of Chairs</td>
<td>May 6, 2010</td>
</tr>
<tr>
<td>Multiple Open Forums for Faculty, Staff, and Students</td>
<td>May 18, 2010</td>
</tr>
<tr>
<td>Meeting with Two Members of Academic Technology Committee</td>
<td>May 18, 2010</td>
</tr>
<tr>
<td>Computer Systems and Services Staff</td>
<td>May 18-20, 2010</td>
</tr>
<tr>
<td>Dean's Council</td>
<td>June 10, 2010</td>
</tr>
<tr>
<td>Student Services Council</td>
<td>June 10, 2010</td>
</tr>
<tr>
<td>Business Directors Council</td>
<td>June 10, 2010</td>
</tr>
<tr>
<td>Classified Executive Committee</td>
<td>July 19, 2010</td>
</tr>
<tr>
<td>Academic Technology Committee</td>
<td>September 7, 2010</td>
</tr>
<tr>
<td>Associated Student Organization Executive Committee</td>
<td>September 7, 2010</td>
</tr>
<tr>
<td>President's Cabinet</td>
<td>September 7, 2010</td>
</tr>
<tr>
<td>IT Audit Report</td>
<td>January 6, 2011</td>
</tr>
<tr>
<td>Work Group 6 Reorganization</td>
<td>February 10, 2011</td>
</tr>
<tr>
<td>Superintendent/President Summit</td>
<td>February 10, 2011</td>
</tr>
<tr>
<td>Technology Task Team Meeting #1</td>
<td>February 11, 2011</td>
</tr>
</tbody>
</table>
2011-2015 Technology Plan

Technology Task Team Meeting #2  February 14, 2011
Technology Task Team Meeting #3  February 15, 2011
Technology Task Team Meeting #4  February 16, 2011
Technology Task Team Meeting #5  February 17, 2011
Technology Task Team Meeting #6  February 22, 2011
Technology Task Team Meeting #7  February 24, 2011
Technology Task Team Meeting #8  February 25, 2011
Technology Task Team Meeting #9  February 28, 2011
Submission of the SWC Technology Plan to the Academic Senate for Approval  March 1, 2011
Submission of the SWC Technology Plan to the Shared Consultation Council for Approval  March 2, 2011
Submission of the SWC Technology Plan to the Governing Board for Approval  March 9, 2011

The following topics were addressed in the open forums and meetings listed above:

• Technologies and technology support for faculty and students that are essential to the viability of the College's academic programs

• Ways in which the College's academic programs and student learning experiences could be enhanced through improved technology and technology support for faculty and students

• Ways in which the College administrative functions could be accomplished more effectively and efficiently

• Ways in which services to students could be enhanced through improved technology and technology support

• Ways in which technology and technology support requirements for the College may change during the next five years

• Technology and technology support improvements that would have the greatest positive impact on the College

• New planning processes needed to ensure that technology planning is integrated with Institutional planning and Institutional program review
CONTRIBUTORS TO THE 2011-2015 TECHNOLOGY PLAN

The 2011-2015 Technology Master Plan was developed through the contributions and support of the following Technology Task Team members (Table II).

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Larry Lambert, Co-Chair</td>
<td>Online Learning Instructional Support Specialist</td>
</tr>
<tr>
<td>Tom Lubet, Co-Chair</td>
<td>Professor, School of Business, Professional and Technical Education</td>
</tr>
<tr>
<td>Paul Norris, Co-Chair</td>
<td>Computer Systems and Services, Computer Operations Supervisor</td>
</tr>
<tr>
<td>Tom Bugavich</td>
<td>Community Media Relations, Graphic Designer</td>
</tr>
<tr>
<td>Veronica Burton</td>
<td>Articulation Officer</td>
</tr>
<tr>
<td>Kathleen Canney-Lopez</td>
<td>Professor, School of Business, Professional and Technical Education</td>
</tr>
<tr>
<td>Claudia Duran</td>
<td>Associated Student Organization Representative</td>
</tr>
<tr>
<td>Scott Finn</td>
<td>Professor, School of Counseling and Personal Development</td>
</tr>
<tr>
<td>Al Garrett</td>
<td>Computer Systems and Services Network Administrator</td>
</tr>
<tr>
<td>Jerry Gonzalez</td>
<td>Computer Systems and Services Senior Systems Analyst</td>
</tr>
<tr>
<td>Carla Kirkwood</td>
<td>Professor, International Programs</td>
</tr>
<tr>
<td>Pattt Larkin</td>
<td>Interim Director of Computer Systems and Services</td>
</tr>
<tr>
<td>Caree Lesh</td>
<td>Professor, School of Counseling and Personal Development</td>
</tr>
<tr>
<td>Chris Martinez</td>
<td>Office Support Services, Word Processor</td>
</tr>
<tr>
<td>Maria E. Martinez</td>
<td>Professor, School of Business, Professional and Technical Education</td>
</tr>
<tr>
<td>Carl Scarbnick</td>
<td>Professor, School of Math, Science, and Engineering</td>
</tr>
<tr>
<td>Elisabeth Shapiro</td>
<td>Professor, School of Business, Professional and Technical Education</td>
</tr>
<tr>
<td>Barbara Spidel</td>
<td>Professor, Learning Assistance Services</td>
</tr>
<tr>
<td>Mink Stavenga</td>
<td>Dean of Instructional Support Services</td>
</tr>
<tr>
<td>Angelina Stuart</td>
<td>Professor, Academic Senate President</td>
</tr>
<tr>
<td>Ron Vess</td>
<td>Library Faculty, AOC Co-chair</td>
</tr>
</tbody>
</table>

SWC TECHNOLOGY MASTER PLAN

The purpose of the SWC Technology Master Plan is to address college-wide technology, support, and resource planning in order to further the mission, vision, and strategic direction of the College. It is linked with other institutional plans and program reviews for instruction, student services, and administration. The Technology Master Plan differs from the Information and Technology Services Unit Plan in that the former focuses on college-wide resources, policies, and strategies and the latter focuses on departmental resources, procedures, and operations.

TECHNOLOGY VISION

Southwestern College uses technology and Universal Design principles to support its mission in order to enhance learning and instruction, educational opportunities, personalize student services, and provide effective administrative processes to meet the changing needs of the College and community.

TECHNOLOGY DEFINITION

Technology is a broad subject that applies to many aspects of teaching, learning, research, communication, and operations at SWC. Such technologies are typically categorized as instructional technology or information technology. The former is associated with resources for teaching and learning (academic) and the latter is associated with resources for communication and operations (administrative). These technologies typically include computers, servers, software, databases, printers, networks, network
applications, storage devices, video projectors, video conferencing, and the like. Many such technologies are used for both academic and administrative purposes, e.g., computers, networks, email, etc. Thus, it is necessary for the Technology Master Plan to address both information and instructional technologies.

Some technologies at SWC are specific to academic or vocational courses, such as photovoltaic systems, electronic music keyboards, microscopes, and spectrometers, etc. Such technologies are specialized instruments or tools that are discipline-specific or industry-specific. Indeed, faculty members regularly consult with external advisory councils to ensure the use of relevant technologies in their programs. Furthermore, instructional programs engage in Program Review cycles to evaluate the effectiveness of such technologies and develop plans. Program Review plans are tied to resource allocation processes that provide an avenue of funding for specialized technologies.

The SWC Technology Master Plan is focused on planning for instructional and information technology resources that have a broad application across the College. The technology plan addresses how technology resources will be implemented to further the mission of the College and improve institutional effectiveness. This plan does not go so far as to specify the details of all of the specialized technologies that would be included in program reviews; that is left to the subject experts. However, the Technology Master Plan addresses how specialized technologies will be integrated with the technology infrastructure and technology support services of the College.

**GUIDING VALUES AND PRINCIPLES FOR TECHNOLOGY**

The College’s commitment to technology is translated into a set of guiding values and principles for how technology should be created, managed, and supported. These values and principles will serve as the foundation of any technology development in the district, and they will guide discussions on the suitability of future technology action plans.

**ACCESS:** Technology will be readily accessible to all students, faculty, and staff of the College. The College will ensure that all students, faculty, and staff, including those with disabilities, have required access to computers, software, and technology services. Capabilities will be developed to provide fully functional accessibility to the College and community we serve.

**CURRENCY:** The College will provide current, up-to-date hardware, software, and communication materials. Policies, procedures, and budgets will be established to ensure technology currency at the College.

**RELIABLE TECHNOLOGY SERVICES:** Information and instructional technology accessibility will be delivered via a secure, solidly established, centrally operated, redundant, and robust network and computer infrastructure.

**TECHNOLOGY SUPPORT SERVICES:** The District will provide customer service and training to help the college community access and use technology.

Access to information technology support will be provided to the college community through a variety of venues, e.g., phone, fax, e-mail, online, in-person. The availability of customer support will be continually monitored to provide appropriate staffing and coverage to meet the needs of the college community.

The College will review its technology support based on the following dimensions of customer service:

1. **Flexibility:** Ability to adapt and adjust when and as needed
2. **Responsiveness:** Willingness to help and provide prompt service
3. **Reliability:** Ability to perform the promised service dependably, accurately, and in a timely manner.
4. **Assurance:** Knowledge, courtesy, and the ability to convey trust and confidence
5. **Empathy:** Ability to provide caring, individualized attention
STAFFING AND RESOURCES: The College will provide the staffing and resources necessary to support and maintain the technology infrastructure, including

- Hardware
- Software
- Administrative systems
- Course management systems
- Content management systems
- Campus web site
- Faculty, interdepartmental/school websites
- Services
- Training

PLANNING: The technology objectives of the College need to be aligned with institutional priorities, and the technology planning process of the College needs to ensure a high level of inclusion and interaction. The technology planning process provides an opportunity to accomplish the following:

1. Determine the fundamental technology directions of the College.
2. Identify key strategies in taking the next steps.
3. Clarify the actions needed to help departments, divisions, and the College to achieve their broad missions and goals.
4. Articulate what leadership and services the district can expect from college technology organizations.
5. Disseminate knowledge about existing technology services, technology needs, and technology constraints.
6. Evaluate current services and practices, revise, and expand services as needed.
PRIORITIZATION RUBRIC: The following table is the rubric upon which SWC prioritizes technological needs. Program Review drives these prioritizations. However, in the case of State government, Federal government, or other funding agency mandates, these technology needs will receive top priority by the College.

<table>
<thead>
<tr>
<th>Number</th>
<th>Criteria</th>
<th>Weight</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Extent to which request is identified in institutional program review.</td>
<td>80%</td>
</tr>
<tr>
<td>2</td>
<td>Role of the technology in supporting curriculum or College services.</td>
<td>10%</td>
</tr>
<tr>
<td>3</td>
<td>Extent to which the request represents a collaborative effort to use technology resources more effectively</td>
<td>5%</td>
</tr>
<tr>
<td>4</td>
<td>Sustainability of the technology in terms of ongoing support requirements and replacement costs.</td>
<td>5%</td>
</tr>
<tr>
<td></td>
<td><strong>Maximum Points</strong></td>
<td>100%</td>
</tr>
</tbody>
</table>

SPEED: The College will make every effort to ensure the speeds of its network, computers, and telecommunications equipment are in keeping with college and statewide standards.

INNOVATION AND LEVERAGING TECHNOLOGY: The District will encourage the college community to explore how to use, leverage, and integrate innovative uses of technology in teaching, learning, and college operations.

TECHNOLOGY SERVICES SUMMARY

A. STUDENT ACCESS: Provide secure student access to learning resources and support services for all college locations.

A.1. Identity Management: Develop and implement a new user account system that requires students to individually log into college network resources, such as the wireless network or lab computers.

A.2. Computer Lab Operations: Develop college standards to adequately staff and support all current and future student computer labs. As technology is consistently evolving, the District will support and adapt to those changes.

A.3. Computer Lab Hardware and Software: Conduct ongoing evaluations of the adequacy of student computer lab hardware and software to meet the needs of instructional programs. These evaluations, to include program review plans and the age of the computers, will serve as important criteria for prioritizing the replacement of lab hardware and software.

A.4. Online Courses and Programs: To increase student access, provide the technical infrastructure and support for current and future additional online courses and programs, such as online tutoring.

A.5. Online Learning and Support Services: Provide online access to all learning resources and student support services to assure equitable access and to meet identified student needs.

A.6. Virtual Desktop Computing: Develop and implement a cloud-based and/or server-based virtual desktop environment that enables authorized network access to specialized instructional software from any college computer.

B. INSTRUCTIONAL TECHNOLOGY: Support the success of all students through the development of Instructional technologies, including the delivery of instructional media for use on- and off-campus and Institutional Research. Instructional materials must meet the electronic and information technology accessibility requirements of Section 508, comply with applicable federal and state laws, and embrace Universal Design principles.

B.1. Instructor Support: Provide faculty training, support, and adequate staffing for the development and delivery of instructional technology resources to students on- and off-campus.

B.2. Online Lectures: Develop standardized and automated processes for capturing on-campus lectures (audio and/or video and/or lecture resources) to publish online.
B.3. Smart Classrooms: Complete the installation of interdisciplinary new media systems in all relevant classrooms. Then develop new standards for smart classrooms and begin upgrading older classrooms to meet the new standards.

B.4. Instructional Content: Develop new processes for efficiently licensing and delivering copyrighted and captioned instructional content to students on- and off-campus.

C. STUDENT SERVICES: Develop, update, and implement Student Services information system and communication services.

C.1. Processing Calendar Development: Develop and review on a periodic basis to determine sustainability and functionality.


C.3. Matriculation System: Update and maintain matriculation systems for getting information out to students in a timely manner through improved technology.

C.4. Reporting Enhancements: Enhance the reporting systems to improve and automate matriculation data and services.

D. CAMPUS COMPUTING: Develop and improve secure and reliable computing systems to increase institutional effectiveness and provide long-term support for campus computing needs.

D.1. Custom Application Development: Standardize the development and maintenance of custom applications for research, instruction, student services, and college operations in order to improve institutional effectiveness.

D.2. Network Application Support: Develop standardized procedures for requesting network applications and services. Use the SWC Help Desk to centralize user support requests for network applications.

D.3. Computer Hardware and Software Standards: Maintain up-to-date computer hardware and software standards for institutional purchasing and support. Replace computers as determined by Program Review to ensure adequate computing resources for students, faculty, staff, and managers.

D.4. Network Access from Off-Campus Sites: Develop a secure, client-less, login method for authorized employees to access network resources from off-campus locations. Ensure that this login method can be applied to future network applications. [ACCJC/WASC 2008]

D.5. Printer Standards and Support: Develop standards to fund the purchasing, installation, repair, and support of office and lab printers and supplies through a centralized clearinghouse.

D.6. Institutional Software Licenses: Create a centralized clearinghouse for institutional software licensing and require that all software purchases go through it. Provide ongoing funding for software, such as office-productivity, online courses, antivirus protection, website development and content management as determined by Program Review.

D.7. Policies and Procedures: Develop policies and procedures for college-wide technology requests, usage, services, and support, to be reviewed on an annual basis.

E. NETWORK INFRASTRUCTURE: Upgrade and maintain the network infrastructure to support comprehensive wireless, voice, video, and data communications with high availability and recoverability.

E.1. Wireless Access: Upgrade and expand the existing wireless infrastructure to implement comprehensive wireless access for students, employees and authorized guests throughout all college locations.

E.2. Network Infrastructure Standards: Continue to update network infrastructure standards to be applicable to all existing and new SWC buildings. Implement the new standards to ensure high availability and quality of service for voice, video, and data communications.
2011-2015 Technology Plan

throughout the College and District.

E.3. Network Management: Implement enterprise level network management tools to monitor and control all critical network resources at all college locations. Develop emergency response procedures for network outages or attacks.

E.4. Network Storage: Provide secure and centralized network storage, backup, and recovery services to meet the needs of the College. Develop a data archiving and retrieval process.

E.5. Disaster Recovery: Develop a multi-tiered disaster recovery plan to restore access to critical information resources in case of a catastrophic outage. Determine ways to proactively minimize risks.

E.6. Administrative Server Virtualization: Expand and maintain virtual servers to replace physical servers, promote "Green IT," support disaster recovery, and extend the capacity to offer additional network services and solutions.

F. TECHNOLOGY SUPPORT: Provide ongoing training, staff, funding, and technology support services to meet the needs of students, faculty, staff, and managers.

F.1. Service Level Agreements: Develop service level agreements (SLAs) at all SWC Help Desk locations.

F.2. Technical Staff and Managers: Hire additional technical staff and managers to meet the recommendations of Program Review.

F.3. Technology Training for Operations and Support: Provide ongoing training and support in the use of productivity technologies for faculty, staff, and managers.

F.4. Technology Training for Learning and Instruction: Provide ongoing training and support in the use of instructional technologies for students, faculty, staff, and managers.

G. DIGITAL COMMUNICATIONS: Develop and support multiple, digital means of communication between the college, community, and all constituencies.

G.1. Unified Communications: Coordinate with CSS to implement a system that unifies all forms of communication, including voice-mail, email, and emerging technologies.

G.2. District Portal: Research, develop, and implement a district portal for college communications, student communications, and access to college support services and online forms.

G.3. Website Development: Continue to develop the navigational structure and provide adequate support and staff for the SWC website to improve access for all users at all levels of proficiency. Ensure that all faculty and all departments have current and accurate information on the college website.

G.4. Video Conferencing: Upgrade and support audio and video conferencing resources to connect individuals/groups between SWC and off-site locations.

G.5. Time-Sensitive Notifications: Implement a college-wide emergency notification system that can be used to send alerts to students and/or employees in a matter of minutes. Such a system would use multiple forms of communication, such as text messages, phone/voice-mail, email, and emerging technologies. Utilize the system for any time-sensitive notifications.

G.6. Emerging Communications: Experiment with emerging technologies to enhance effective communication and institutional effectiveness.
TECHNOLOGY GOALS AND STRATEGIES

The technology goals and strategies are based upon institutional program review, accreditation standards, an assessment of current needs, internal plans, and a review of external trends in academic and administrative computing in higher education. The technology goals are umbrella statements that provide direction for change. The following implementation grid includes a timeline of specific action items that are measurable activities to further the goals and strategies of the plan.

In order to demonstrate the relationship of the Technology Master Plan to the ACCJC/WASC Accreditation Standards and SWC Strategic Plan, each strategy is followed in brackets by references to the applicable accreditation standards and strategic directions of the College.

A. STUDENT ACCESS: Provide secure student access to learning resources and support services for all college locations.

A.1. Identity Management: Develop and implement a new user account system that requires students to individually log into college network resources, such as the wireless network or lab computers. (SWC Strategic Plan (SP) 2009-12, pg 16)

A.2. Computer Lab Operations: Develop college standards to adequately staff and support all current and future student computer labs. As technology is consistently evolving, the District will support and adapt to those changes. (SWC SP 2009-12, pg 50-51 In-Process (IP)

A.3. Computer Lab Hardware and Software: Conduct ongoing evaluations of the adequacy of student computer lab hardware and software to meet the needs of instructional programs. These evaluations, to include program review plans and the age of the computers, will serve as important criteria for prioritizing the replacement of lab hardware and software. (SWC SP 2009-12, pg 50-51 IP)

A.4. Online Courses and Programs: To increase student access, provide the technical infrastructure and support for current and future additional online courses and programs, such as online tutoring. (SWC SP 2009-12, pg 18)

A.5. Online Learning and Support Services: Provide online access to all learning resources and student support services to assure equitable access and to meet identified student needs. (SWC SP 2009-12, pg 50-51 IP)

A.6. Virtual Desktop Computing: Develop and implement a cloud-based and/or server-based virtual desktop environment that enables authorized network access to specialized instructional software from any college computer. (SWC SP 2009-12, pg 50-51 IP)

B. INSTRUCTIONAL TECHNOLOGY: Support the success of all students through the development of instructional technologies, including the delivery of instructional media for use on- and off-campus and Institutional Research. Instructional materials must meet the electronic and information technology accessibility requirements of Section 508, comply with applicable federal and state laws, and embrace Universal Design for all people.

B.1. Instructor Support: Provide faculty training, support, and adequate staffing for the development and delivery of instructional technology resources to students on- and off-campus. (SWC SP 2009-12, pg 53)

B.2. Online Lectures: Develop standardized and automated processes for capturing on-campus lectures (audio and/or video and/or lecture resources) to publish online. (SWC SP 2009-12, pg 18)

B.3. Smart Classrooms: Complete the installation of interdisciplinary new media systems in all relevant classrooms. Then develop new standards for smart classrooms and begin upgrading older classrooms to meet the new standards. (SWC SP 2009-12, pg 18)

B.4. Instructional Content: Develop new processes for efficiently licensing and delivering copyrighted and captioned instructional content to students on and off-campus. (SWC SP 2009-12, pg 18)
C. **STUDENT SERVICES**: Develop, update, and implement Student Services information system and communication services.

C.1. **Processing Calendar Development**: Develop and review on a periodic basis to determine sustainability and functionality. (SWC SP 2009-12, pg 50-51 IP)

C.2 **Financial Aid**: Conduct ongoing evaluation of Financial Aid services to determine student friendly access and consistency with mandated timelines. (SWC SP 2009-12, pg 16)

C.3 **Matriculation System**: Update and maintain matriculation systems for getting information out to students in a timely manner through improved technology. (SWC SP 2009-12, pg 50-51 IP)

C.4 **Reporting Enhancements**: Enhance the reporting systems to improve and automate matriculation data and services. (SWC SP 2009-12, pg 16)

D. **CAMPUS COMPUTING**: Develop and improve secure and reliable computing systems to increase institutional effectiveness and provide long-term support for campus computing needs.

D.1. **Custom Application Development**: Standardize the development and maintenance of custom applications for research, instruction, student services, and college operations in order to improve institutional effectiveness. (SWC SP 2009-12, pg 50-51 IP)

D.2. **Network Application Support**: Develop standardized procedures for requesting network applications and services. Use the SWC Help Desk to centralize user support requests for network applications. (SWC SP 2009-12, pg 50-51 IP)

D.3. **Computer Hardware and Software Standards**: Maintain up-to-date computer hardware and software standards for institutional purchasing and support. Replace computers as determined by Program Review to ensure adequate computing resources for students, faculty, staff, and managers. (SWC SP 2009-12, pg 50-51 IP)

D.4. **Network Access from Off-Campus Sites**: Develop a secure, client-less, login method for authorized employees to access network resources from off-campus locations. Ensure that this login method can be applied to future network applications. (SWC SP 2009-12, pg 50-51 IP)

D.5. **Printer Standards and Support**: Develop standards to fund the purchasing, installation, repair, and support of office and lab printers and supplies through a centralized clearinghouse. (SWC SP 2009-12, pg 50-51 IP)

D.6. **Institutional Software Licenses**: Create a centralized clearinghouse for institutional software licensing and require that all software purchases go through it. Provide ongoing funding for software, such as office-productivity, online courses, antivirus protection, website development and content management as determined by Program Review. (SWC SP 2009-12, pg 50-51 IP)

D.7. **Policies and Procedures**: Develop policies and procedures for college-wide technology requests, usage, services, and support, to be reviewed on an annual basis. (Appendix X). (SWC SP 2009-12, pg 44)
E: **NETWORK INFRASTRUCTURE**: Upgrade and maintain the network infrastructure to support comprehensive wireless, voice, video, and data communications with high availability and recoverability.

E.1. **Wireless Access**: Upgrade and expand the existing wireless infrastructure to implement comprehensive wireless access for students, employees and authorized guests throughout all college locations. (SWC SP 2009-12, pg 50-51 IP)

E.2. **Network Infrastructure Standards**: Continue to update network infrastructure standards to be applicable to all existing and new SWC buildings. Implement the new standards to ensure high availability and quality of service for voice, video, and data throughout the College and District. (SWC SP 2009-12, pg 50-51 IP)

E.3. **Network Management**: Implement enterprise level network management tools to monitor and control all critical network resources at all college locations. Develop emergency response procedures for network outages or attacks. (SWC SP 2009-12, pg 50-51 IP)

E.4. **Network Storage**: Provide secure and centralized network storage, backup, and recovery services to meet the needs of the College. Develop a data archiving and retrieval process. (SWC SP 2009-12, pg 50-51 IP)

E.5. **Disaster Recovery**: Develop a multi-tiered disaster recovery plan to restore access to critical information resources in case of a catastrophic outage. Determine ways to proactively minimize risks. (SWC SP 2009-12, pg 50-51 IP)

E.6. **Administrative Server Virtualization**: Expand and maintain virtual servers to replace physical servers, promote “Green IT,” support disaster recovery, and extend the capacity to offer additional network services and solutions. (SWC SP 2009-12, pg 50-51 IP)

F. **TECHNOLOGY SUPPORT**: Provide ongoing training, staff, funding, and technology support services to meet the needs of students, faculty, staff, and managers.

F.1. **Service Level Agreements**: Develop service level agreements (SLAs) at all SWC Help Desk locations. (SWC SP 2009-12, pg 50-51 IP)

F.2. **Technical Staff and Managers**: Hire additional technical staff and managers to meet the recommendations of Program Review. (SWC SP 2009-12, pg 54)

F.3. **Technology Training for Operations and Support**: Provide ongoing training and support in the use of productivity technologies for faculty, staff, and managers. (SWC SP 2009-12, pg 61)

F.4. **Technology Training for Learning and Instruction**: Provide ongoing training and support in the use of instructional technologies for students, faculty, staff, and managers. (SWC SP 2009-12, pg 61)

G. **DIGITAL COMMUNICATIONS**: Develop and support multiple, digital means of communication between the college, community, and all constituencies.

G.1. **Unified Communications**: Coordinate with CSS to implement a system that unifies all forms of communication, including voice-mail, email, and emerging technologies. (SWC SP 2009-12, pg 57)

G.2. **District Portal**: Research, develop, and implement a district portal for college communications, student communications, and access to college support services and online forms. (SWC SP 2009-12, pg 50-51 IP)

G.3. **Website Development**: Continue to develop the navigational structure and provide adequate support and staff for the SWC website to improve access for all users at all levels of proficiency. Ensure that all faculty and all departments have current and accurate information on the college website (SWC SP 2009-12, pg 50-51 IP)
G.4. Video Conferencing: Upgrade and support audio and video conferencing resources to connect individuals/groups between SWC and off-site locations. (SWC SP 2009-12, pg 50-51 IP)

G.5. Time-Sensitive Notifications: Implement a college-wide emergency notification system that can be used to send alerts to students and/or employees in a matter of minutes. Such a system would use multiple forms of communication, such as text messages, phone/voice-mail, email, and emerging technologies. Utilize the system for any time-sensitive notifications. (SWC SP 2009-12, pg 50-51 IP)

G.6. Emerging Communications: Experiment with emerging technologies to enhance effective communication and institutional effectiveness. (SWC SP 2009-12, pg 50-51 IP)

SWC TECHNOLOGY MASTER PLAN IMPLEMENTATION GRID

Start Date: 3/1/2011

The Implementation Grid shows the action items, lead manager, responsible units, timelines, performance indicators, dependencies, and required resources that are necessary to further the goals and strategies of the Technology Master Plan.

1. ACTION ITEM: Action items describe the activities for each of the technology strategies. Each action item has a unique ID. The first two characters of the ID refer to the related strategy. For example, action items A. 2a and A. 2d. Both refer to technology strategy A. 2.

2. LEAD MANAGER: The lead manager is responsible for initiating the action items and overseeing the completion of the activities.

3. RESPONSIBLE UNITS: Employees in responsible units will be involved in completing tasks or providing input for the activities.

4. TIMELINES: Timelines provide the fiscal years in which the activities will occur. Fiscal years begin July 1 and end June 30.

5. PERFORMANCE INDICATORS: Performance indicators describe the major outcome of the action items.

6. DEPENDENCIES: Dependencies need to be completed before the action item can be completed.

7. REQUIRED RESOURCES: Required resources are estimates that primarily refer to staff/manager time, equipment funding, or existing resources. The time and budget allocations are gross estimates that would be further refined for an actual project proposal.
## ACTION ITEMS TABLES

### A. STUDENT ACCESS: Provide secure student access to learning resources and support services for all college locations.

<table>
<thead>
<tr>
<th>#</th>
<th>Description</th>
<th>Owner(s)</th>
<th>Dates</th>
<th>Benefit</th>
<th>Resources</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Develop and implement new user accounts for student access to wireless, lab computers and online courses</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013 Students use the new system to log on to wireless network, lab computers, and eventually online courses, etc.</td>
<td>Active directory user account system</td>
<td>500 hours for 12 months to implement; 8 hours per week for ongoing maintenance and user support. Use existing student domain servers and storage.</td>
</tr>
<tr>
<td>2</td>
<td>Develop a new organizational model for the operation, supervision and technical support of current and future campus SWC locations</td>
<td>Director of CSS Dean of (ISS)</td>
<td>Shared Consultation Council (SCC)</td>
<td>2011-2012 Proposal and service level agreements for an organizational model to provide adequate supervision, staff and technical support of all current and future labs.</td>
<td>Mutual collaboration and planning</td>
<td>120 hours to develop the proposal</td>
</tr>
<tr>
<td>3</td>
<td>Implement the new organizational model for providing adequate supervision, staff and technical support for all computer labs</td>
<td>Director of CSS Dean of ISS</td>
<td>Depends on model</td>
<td>2012-2013 All computer labs have adequate supervision, staff and technical support</td>
<td>Approval of new organizational model for labs</td>
<td>Additional and/or reassigned staff; possibly additional manager</td>
</tr>
</tbody>
</table>
### 2011-2015 Technology Plan

<table>
<thead>
<tr>
<th>Task</th>
<th>Responsible Party</th>
<th>Details</th>
<th>Duration</th>
<th>Funding</th>
</tr>
</thead>
<tbody>
<tr>
<td>Conduct an annual prioritization process to determine which student computer labs and related servers should be replaced, reissued, or removed for the following school year based upon the age of the computers and program review plans using project management reporting tools</td>
<td>Director of CSS, Dean of ISS</td>
<td>Technology Committee in collaboration with Academic Technology Committee (ATC) and CSS</td>
<td>2011-2015</td>
<td>Annual funding; $1.2 million per year as determined by Program Review to replace older lab computers and servers; funding sources may include instructional equipment, building remodels, etc.; 640 hours each year to replace the computers and servers</td>
</tr>
<tr>
<td>Develop and implement new policies and procedures for installing updated software in student computer labs using project management reporting tools</td>
<td>Director of CSS, Dean of ISS</td>
<td>Technology Committee in collaboration with ATC and CSS</td>
<td>2011-2012</td>
<td>Mutual collaboration and planning; 80 hours to develop the policies and procedures; 120 hours per semester to implement</td>
</tr>
<tr>
<td>Install an effective, stable course management system</td>
<td>Dean of ISS</td>
<td>Technology Committee and Online Learning Center (OLC) in collaboration with ATC; ISS</td>
<td>2011-2012</td>
<td>Successful installation of effective, stable course management system in collaboration with ATC; 240 hours to install and test effective, stable CMS; must renew CMS license each year; 96 hours of training for support staff</td>
</tr>
<tr>
<td>Objective</td>
<td>Lead administrator</td>
<td>Collaboration with</td>
<td>Expected dates</td>
<td>Accomplishments</td>
</tr>
<tr>
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</tr>
<tr>
<td>1.1</td>
<td>Provide reliable, synchronized communication among all systems that interface with the CMS</td>
<td>Dean of ISS</td>
<td>Technology Committee in collaboration with ATC and Dean of Student Services (SS); CSS; OLC</td>
<td>2011-2013</td>
</tr>
<tr>
<td>1.2</td>
<td>Provide support to instructional departments or divisions if they elect to develop fully online certificate or degree programs</td>
<td>Dean of ISS</td>
<td>Office of Instructional Support Services Online Learning Center Instructional Support Specialist</td>
<td>2011-2013</td>
</tr>
<tr>
<td>1.3</td>
<td>Collaboratively develop action plans and service level agreements with Student Services to provide new or enhanced online student support services (e.g., advising, counseling, enrolling, etc.)</td>
<td>Dean of ISS</td>
<td>CSS</td>
<td>2011-2015</td>
</tr>
<tr>
<td>Year</td>
<td>Action Plan</td>
<td>Owner/Team Member(s)</td>
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<tr>
<td>2013-2014</td>
<td>Collaborate with Academic Affairs to develop plans for providing online instructional support and online tutoring.</td>
<td>Director of CSS, Academic Affairs</td>
<td></td>
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</tr>
<tr>
<td>2014-2015</td>
<td>Implement cloud-based computing environment within labs.</td>
<td>Director of CSS, Academic Affairs</td>
<td></td>
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</tr>
<tr>
<td>2015-2016</td>
<td>Expand online tutoring and support to include virtual lab access.</td>
<td>Director of CSS, Academic Affairs</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2016-2017</td>
<td>Assess and adjust cloud-based computing environment to meet student needs.</td>
<td>Director of CSS, Academic Affairs</td>
<td></td>
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</tr>
<tr>
<td>2017-2018</td>
<td>Continuously improve cloud-based computing environment.</td>
<td>Director of CSS, Academic Affairs</td>
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</tr>
</tbody>
</table>

**Costs:**
- $300,000 for server license and hardware, ongoing license and maintenance costs.
- $20,000 per year for ongoing maintenance and support.
- Potential savings on computer replacement since this could extend the useful life of lab computers.
### B. Instructional Technology

Support the success of all students through the development of instructional technologies, including the delivery of instructional media for use on- and off-campus and Institutional Research. Instructional materials must meet the electronic and information technology accessibility requirements of Section 508, comply with applicable federal and state laws, and embrace Universal Design.

<table>
<thead>
<tr>
<th>Description</th>
<th>Responsible Party</th>
<th>Start Year</th>
<th>Objectives</th>
<th>Additional Staff and Management</th>
<th>Time Commitment</th>
</tr>
</thead>
<tbody>
<tr>
<td>Provide additional support of faculty in the development of Instructional media to be used on or off-campus and ensure that media meet Universal Design standards</td>
<td>Director of CSS, VPAA</td>
<td>2011-2013</td>
<td>Increased quantity and quality of faculty-produced Instructional media</td>
<td>Additional staff and management</td>
<td>80 hours per week for 2 Online Learning Specialists for ongoing support</td>
</tr>
<tr>
<td>Provide a comprehensive support system to meet the needs of instructors who are teaching online or preparing to teach online and ensure that online resources are accessible for all students</td>
<td>VPAA, ISS, Technology Committee, ATC, OLC, Office Support Services (SS)</td>
<td>2011-2015</td>
<td>Increased student retention and success in online courses.</td>
<td>Additional staff and management</td>
<td>60 additional hours per week for ongoing support by an Online Learning Specialist</td>
</tr>
<tr>
<td>Hire digital content media support staff</td>
<td>VPAA, ISS, Staff Development</td>
<td>2011-2013</td>
<td>Faculty survey and student success rates</td>
<td>Funding and reorganization</td>
<td>80 hours per week for two digital content media support specialists</td>
</tr>
<tr>
<td>Objective</td>
<td>Stakeholders</td>
<td>Key Dates</td>
<td>Goal</td>
<td>Support Activities</td>
<td>Expected Outcomes</td>
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<tr>
<td>Adequate support for Office of Institutional Research using Data Warehouse to facilitate Program Review</td>
<td>SCC, Director of CSS, Office of Research, IPRC</td>
<td>2011-2015</td>
<td>Effective support through reliable and sufficient data from the Office of Research in support of Program Review for appropriate decision-making</td>
<td>Funding, Staffing</td>
<td>Scalable across the institution</td>
</tr>
<tr>
<td>On a pilot, obtain input from faculty regarding instructional needs; present options to the Technology Committee and interested parties</td>
<td>Director of CSS, VPAA, Technology Committee</td>
<td>2011-2013</td>
<td>Online faculty survey, full-time and adjuncts</td>
<td>Viable option(s)</td>
<td>120 hours to explore models and conduct pilot test; may need to purchase additional hardware/software for testing</td>
</tr>
<tr>
<td>Design a system to digitally capture, caption, and publish classroom lectures online</td>
<td>Director of CSS, VPAA, ATC</td>
<td>2013-2015</td>
<td>Lectures are captured and delivered online to increase student access and success.</td>
<td>Successful pilot project</td>
<td>Dependent on funding and faculty; 20 hours per week to support the system</td>
</tr>
<tr>
<td>Develop a proposal to complete the installation of interdisciplinary new media systems and support in the classrooms, labs, and meeting rooms</td>
<td>Director of CSS, Technology Committee, ATC</td>
<td>2011-2013</td>
<td>All remaining viable classrooms, labs, and meeting rooms have systems installed</td>
<td>Funding</td>
<td>80 hours to identify the needs and develop the proposal.</td>
</tr>
<tr>
<td>Description</td>
<td>Responsible Parties</td>
<td>Year</td>
<td>Description</td>
<td>Notes</td>
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</tr>
<tr>
<td>Develop and implement new procedures for efficiently licensing and delivering copyrighted and captioned</td>
<td>VPAA</td>
<td>2011-2013</td>
<td>Documentation of procedures for efficiently licensing, captioning and showing videos in online courses</td>
<td>80 hours to develop new procedures; 8 hours per week for implementation</td>
<td></td>
</tr>
<tr>
<td>Instructional media content to students on and off-campus; provide training for faculty and staff</td>
<td>CSS, Library, Disability Support Services (DSS), Technology Committee, ATC</td>
<td></td>
<td>Mutual collaboration and planning</td>
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</tr>
</tbody>
</table>
### C. Student Services Technology

- **Develop, update, and Implement Student Services information system and communication services.**

<table>
<thead>
<tr>
<th>Ongoing planning, scheduling, system preparation, testing, training, and consultation to support information technology in processing calendars for the Admissions Office, attendance accounting, and state reporting; this will also include online registration and training network schedules.</th>
<th>Vice President of Student Services (VPSS)</th>
<th>ISS</th>
<th>2011-2013</th>
<th>Staff available for input and development to define process and procedures</th>
<th>Mutual planning and collaboration</th>
<th>Support staff, 30 hours per week for research, assessment, planning</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Refine an effective system that will execute student awards and electronic disbursements to avoid late payments to students</strong></td>
<td>VPSS</td>
<td>Financial Aid Office</td>
<td>2011-2013</td>
<td>Reduced wait time between FAFSA and pay outs</td>
<td>Funding, additional staff, and continual upgrade of systems</td>
<td>Funding needed to support design and implementation needs</td>
</tr>
<tr>
<td></td>
<td>Dean of Student Services</td>
<td>CSS</td>
<td></td>
<td></td>
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</tr>
<tr>
<td></td>
<td>Dean of Financial Aid</td>
<td></td>
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<tr>
<td></td>
<td>Director of CSS</td>
<td></td>
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</tr>
<tr>
<td><strong>Implement ACH (Electronic Fund Transfer) of financial aid awards to allow students to receive disbursements in an electronic mode with a deposit into their personal bank accounts</strong></td>
<td>Dean of SS</td>
<td>Financial Aid Office</td>
<td>2011-2012</td>
<td>Evidence of ACH deposits</td>
<td>Funding to support changes and/or additions to the system</td>
<td>Funding and staff; 20 hours per week to implement</td>
</tr>
<tr>
<td>Task Description</td>
<td>Responsible Party</td>
<td>Start Date</td>
<td>Duration</td>
<td>Description</td>
<td>Staff and System Use</td>
<td>Time Allocation</td>
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</tr>
<tr>
<td>Calculate and forecast average Pell Grant Award using a 2-year reporting period</td>
<td>VPAA, Director of Financial Aid</td>
<td>2011-2014</td>
<td></td>
<td>Data will be used to project distributions over a 2-year period.</td>
<td>Staff and system use</td>
<td>30 hours per week for system upgrades and for calculation and forecast</td>
</tr>
<tr>
<td>Ongoing user-requested enhancements and changes to degree audit and E-Advising module</td>
<td>Admissions Office, Dean of SCPD, Director of CSS</td>
<td>2011-2015</td>
<td></td>
<td>Modifications will be made to improve system use and functionality.</td>
<td>Mutual planning and collaboration</td>
<td>6 hours per week for enhancement and changes to degree audit</td>
</tr>
<tr>
<td>Continuous updates to SARS hardware and software</td>
<td>VPAA, Dean of SCPD, Director of CSS</td>
<td>2011-2012</td>
<td>with annual review</td>
<td>Modifications will be made to improve system use and functionality.</td>
<td>Hardware, software, and staffing</td>
<td>10 hours per week for updates; funding consists of approximately $20,000</td>
</tr>
<tr>
<td>Explore a process to provide students with unified communication and information dissemination, e.g., Facebook, Twitter, email</td>
<td>VPAA, Director of CSS</td>
<td>2011-2012</td>
<td></td>
<td>Student communication mode will be used for mass dissemination of relevant college information.</td>
<td>Input from stakeholders and system capabilities</td>
<td>50 hours initially for set-up and use; ongoing administrative management for 20 per week</td>
</tr>
<tr>
<td>Create a Continuing Education application/registration web application</td>
<td>VPAA, Director of Continuing Education</td>
<td>2011-2013</td>
<td></td>
<td>Development of application and implementation</td>
<td>System set-up, programming, monitoring, and response</td>
<td>20 hours per week for application processing</td>
</tr>
<tr>
<td>Task</td>
<td>Responsible Party</td>
<td>Start Date</td>
<td>End Date</td>
<td>Description</td>
<td>Time Required</td>
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</tr>
<tr>
<td>Modify the f2f Wait List functionality, including allowing students on Wait List first access to newly open sections and co-requisite courses</td>
<td>VPSA, Director of CSS, Dean of SS</td>
<td>2011-2013</td>
<td>2011-2013</td>
<td>Develop and implement a process to accommodate function</td>
<td>120 hours for system modification</td>
<td></td>
</tr>
<tr>
<td>Ongoing improvement to MIS reporting, including matriculation data collection for improved accuracy using Data Warehouse as a management tool</td>
<td>VPSA, VPAA, Director of CSS, Director of Research</td>
<td>SCPD, CSS, ISS</td>
<td>2011-2015</td>
<td>Develop project plan to improve reporting</td>
<td>Planning and collaboration</td>
<td></td>
</tr>
<tr>
<td>Continued adherence to mandated reporting requirements to both external and internal agencies, e.g., includes FTES reporting, MIS, Enrollment tallies, CalWORKs, and electronic transcript transmission to SDSU</td>
<td>VPSA, VPAA, Director of CSS, Director of Research</td>
<td>Student Services, SCPD, ISS, CSS</td>
<td>2011-2015</td>
<td>Mandated reports are generated consistent with requirements.</td>
<td>Staffing and management</td>
<td></td>
</tr>
<tr>
<td>Design and implement an automated process to merge duplicate student records</td>
<td>VPSA, Dean of SS, Director of CSS</td>
<td>Student Services, CSS</td>
<td>2011-2013</td>
<td>Build an automated process</td>
<td>Mutual collaboration and planning</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>80 hours per week for design and 120 hours for implementation</td>
<td></td>
</tr>
<tr>
<td>Action</td>
<td>Responsible Parties</td>
<td>Year</td>
<td>Description</td>
<td>Duration</td>
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</tr>
<tr>
<td>Consolidate student system records</td>
<td>VPSA, Dean of SS, Director of CC</td>
<td>Student Services CSS</td>
<td>2011-2014 Programming staff and management</td>
<td>Staffing for initial implementation, training, and sustainability; 80 hours per week for design and 120 hours for implementation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implement a CCC Tran for online transcript requests with other community colleges, and with four-year public and private institutions.</td>
<td>Dean of Student Services, Director of CSS</td>
<td>Admissions CSS</td>
<td>2011-2012 Near seamless transfers with other community colleges and with four-year public and private institutions with an effective electronic interchange</td>
<td>Admissions office and CSS collaboration; a clear and well-designed CCC Tran process; Funding and 160 hours for implementation</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implement online credit and non-credit positive attendance tracking Reporting for faculty and State reporting</td>
<td>Dean of Student Services, Director of CSS, Dean of ISS</td>
<td>Admissions CSS, ISS</td>
<td>2011-2012 An accurate and comprehensive positive attendance tracking system that results in accurate and reportable numbers</td>
<td>Determine which software best fits the needs of stakeholders through collaboration; Funding needed for positive attendance software replacement and staffing; technical support at positive attendance tracking locations</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enhance Satisfactory Academic Progress (SAP) process in DATATEL to elevate or reduce manual processes and accommodate new regulatory requirements</td>
<td>Dean of Student Services, Director of CSS, Director of Financial Aid</td>
<td>Financial Aid</td>
<td>2011-2013 An electronic process that measures progress and effectively queries and reports needed associations with rules and regulations</td>
<td>Mutual planning and collaboration; Programming and reporting structure that returns adequate and usable data for SAP and access to new regulatory requirements; funding and staffing as necessary</td>
<td></td>
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</tr>
</tbody>
</table>
D. CAMPUS COMPUTING: Develop and improve secure computing systems to increase institutional efficiencies and provide long-term support for campus computing needs.

<table>
<thead>
<tr>
<th>Activity</th>
<th>Responsible Party</th>
<th>2011-2014 Description</th>
<th>2011-2015 Description</th>
<th>Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>Develop an online application for program reviews (Instruction, Student Services, Administration) based on the new forms and processes; design for future integration with other college planning and resource allocation databases</td>
<td>Dean of ISS, Director of Research, Dean of Student Services, Dean of Counseling</td>
<td>A college-wide accessible system for entering, tracking, and archiving via digital, machine-readable means; annual program reviews</td>
<td>Sufficient programming staff and management</td>
<td>1,500 hours, depending upon the design specifications; 20 hours per week for ongoing maintenance and user support; use existing server and storage resources</td>
</tr>
<tr>
<td>Implement the assessment-tracking program for student learning outcomes (SLOs) that is integrated with the existing eLumen program</td>
<td>Director of CSS, CSS Office, Research Office, ISS, Student Services</td>
<td>A college-wide, accessible system for assessing student learning outcomes of instruction and support services</td>
<td>Programming staff and management</td>
<td>1,500 hours depending upon the design specifications; 20 hours per week for ongoing maintenance and user support; use existing server and storage resources</td>
</tr>
<tr>
<td>Continuous development of CurricUNET</td>
<td>Curriculum Committee, Dean of SS, Curriculum Committee, ISS</td>
<td>An improved web curriculum system</td>
<td>Programming staff and management</td>
<td>20 hours per week for ongoing maintenance and user support</td>
</tr>
<tr>
<td>Description</td>
<td>Responsible</td>
<td>Recipient</td>
<td>Timeframe</td>
<td>Staffing</td>
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</tr>
<tr>
<td>Develop, expand, and support SARS Suite applications (Trak, Grid, Call, Alert, eSARS) for managing student appointments and tracking student services, tutorial FTEs via positive attendance in compliance with Title 5, and instructional hours at all campus locations</td>
<td>Director of CSS, Dean of Counseling, Dean of SS, Dean of ISS, Learning Assistance Services Coordinator</td>
<td>Student Services</td>
<td>2011-2012</td>
<td>SARS Suite applications are installed and supported as needed</td>
</tr>
<tr>
<td>Develop online forms for students to register for events or apply for services. Develop technical standards for accessible entry, submission, confirmation, auditing, security, storage, approval, workflow, data protection, archiving, etc.</td>
<td>Director of CSS, VPSA, VPAA</td>
<td>ISS, Student Services</td>
<td>2011-2015</td>
<td>All popular college and district student forms are available online.</td>
</tr>
<tr>
<td>Implement a resource scheduling application that integrates with Datatel Colleague to provide detailed information about room scheduling, inventory, and utilization</td>
<td>Director of CSS</td>
<td>CSS, ISS</td>
<td>2011-2012</td>
<td>Schedulers can use this system to schedule classes, meetings, performances, etc., and get room reports.</td>
</tr>
<tr>
<td>Task Description</td>
<td>Responsible Party</td>
<td>Timeframe</td>
<td>Details</td>
<td>Funding</td>
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<td>--------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Expand the document imaging system to additional offices as requested</td>
<td>Dean of ISS</td>
<td>2011-2013</td>
<td>Additional offices can use the ImageNow document imaging system to go paperless and conserve paper and storage resources</td>
<td>Funding for document imaging software and hardware; development of new business procedures for managing documents per office</td>
</tr>
<tr>
<td>Develop Load Pay – changing formula for paying adjunct faculty from hourly to load-based</td>
<td>Director of CSS</td>
<td>Tabled for now</td>
<td>Tabled by Administration</td>
<td>Tabled</td>
</tr>
<tr>
<td>Implement the Assignment Contract Tracking component of Datatel.</td>
<td>Director of HR</td>
<td>2011-2015</td>
<td>Contracts are created electronically through Colleague</td>
<td>Funding, consulting and change business practices, Completion of D.I.t</td>
</tr>
<tr>
<td>Action</td>
<td>Responsible Party</td>
<td>Module</td>
<td>Year</td>
<td>Description</td>
</tr>
<tr>
<td>----------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Implement Time and Attendance Entry directly into the County Payroll</td>
<td>Director of HR</td>
<td>CSS</td>
<td>2011-2013</td>
<td>Successful submissions of file(s) to County Department of Education</td>
</tr>
<tr>
<td>system for hourly employees and many special assignments. SWC Human</td>
<td>Director of CSS</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Resources Benefits module.</td>
<td>Payroll</td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Develop and Implement a HRT electronic workflow</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013</td>
<td>Forms successfully submitted to HR</td>
</tr>
<tr>
<td></td>
<td>HR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Develop People Admin for adverse Impact reporting requirement</td>
<td>Director of HR</td>
<td>CSS</td>
<td>2011-2012</td>
<td>Reports satisfactory produced</td>
</tr>
<tr>
<td></td>
<td>HR</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Implement on-line Benefits module</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013</td>
<td>Integration of benefit information in the HR module</td>
</tr>
<tr>
<td></td>
<td>VPHR</td>
<td>HR</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>Payroll</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Review and Implement Self Service Copier Card Reader by which access</td>
<td>OSS Supervisor</td>
<td>OSS</td>
<td>2011-2013</td>
<td>Users trained and using process for self copying</td>
</tr>
<tr>
<td>to SWC’s self-service copiers is controlled.</td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>Objective</td>
<td>Responsible Entity</td>
<td>2011-2012</td>
<td>2011-2013</td>
<td>Funding, consulting</td>
</tr>
<tr>
<td>--------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Develop and Implement Continuing Education Module, placing non-credit training into the college's primary systems.</td>
<td>Director of CSS, Continuing Ed Admissions ISS</td>
<td>2011-2012</td>
<td>Successful registration of students through Web Advisor</td>
<td>Consulting</td>
</tr>
<tr>
<td>Implement Campus Organizations to tracking and support for student organizations</td>
<td>Director of CSS, CSS Student Activities</td>
<td>2011-2012</td>
<td>Campus clubs and organizations tracked</td>
<td>Consulting</td>
</tr>
<tr>
<td>Implementation of an Electronic Student Educational Plan (SEP), e-Advising and Degree Audit reporting for the School of Counseling and Personal Development, and Evaluations office</td>
<td>Director of CSS, Dean of SCPD, CSS Counseling</td>
<td>2011-2013</td>
<td>Successful implementation of Student Ed Plan and Degree Audit</td>
<td>Funding, consulting</td>
</tr>
<tr>
<td>Develop and implement the automation of Governing Board documents</td>
<td>Director of CSS, Superintendent - President Office CMR</td>
<td>2011-2013</td>
<td>Successful posting of on-line documents</td>
<td>Funding, consulting</td>
</tr>
<tr>
<td>Activity</td>
<td>Responsible Party</td>
<td>Action Details</td>
<td>Year</td>
<td>Support Required</td>
</tr>
<tr>
<td>-------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Organize and implement a campus wide Datatel Users Group</td>
<td>Director of CSS</td>
<td>CSS and Colleague Users</td>
<td>2011-2012</td>
<td>Support from the campus</td>
</tr>
<tr>
<td>Change the current Chart of Accounts to allow Baseline Colleague</td>
<td>VPBFA</td>
<td>BFA, CSS</td>
<td>2011-2012</td>
<td>Chart of Accounts changed</td>
</tr>
<tr>
<td>Develop Online Budget development and Budget transfer processes</td>
<td>VPBFA</td>
<td>BFA, CSS</td>
<td>2011-2012</td>
<td>Chart of Accounts changed</td>
</tr>
<tr>
<td>Develop various HEAT processes</td>
<td>Director of CSS</td>
<td>CSS Facilities</td>
<td>2011-2012</td>
<td>Reports satisfactory produced and assignments made</td>
</tr>
<tr>
<td>Develop a centralized system for supporting users of custom applications</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013</td>
<td>An application support system that is integrated with the SWC Help Desk</td>
</tr>
</tbody>
</table>
## 2011-2015 Technology Plan

<table>
<thead>
<tr>
<th>ID</th>
<th>Description</th>
<th>Acknowledged by</th>
<th>Responsible for</th>
<th>Year</th>
<th>Performance Indicators</th>
<th>Staffing Requirements</th>
<th>Resources Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>2.2.1</td>
<td>Develop service level agreements for the support of the various network applications that are used by different departments</td>
<td>Director of CSS</td>
<td>CSS with input from various constituencies</td>
<td>2011-2015</td>
<td>Improved support of network applications</td>
<td>Adequate staffing</td>
<td>32 hours for the development of each SLA</td>
</tr>
<tr>
<td>2.2.2</td>
<td>Create and implement a course scheduling module that is web-based</td>
<td>Dean of ISS</td>
<td>ISS, CSS, Facilities</td>
<td>2011-2015</td>
<td>Web-based course scheduling module is implemented; improved efficiency of course scheduling through one paperless process</td>
<td>Funding</td>
<td>Possible module purchase through CurriCUNET: $150,000</td>
</tr>
<tr>
<td>2.2.3</td>
<td>Create and implement a web-based Program Review module</td>
<td>IPRC, VPAA, Director of Research, Director of CMR</td>
<td>CSS, IPRC, CMR Research</td>
<td>2011-2013</td>
<td>Successful submission of electronic program reviews</td>
<td>Funding</td>
<td>$150,000 for initial cost; 40 hours to implement</td>
</tr>
<tr>
<td>2.2.4</td>
<td>Conduct an annual proposal process to replace 20-25% of faculty and staff computer systems each year</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2015</td>
<td>Faculty and staff offices have up-to-date computer equipment</td>
<td>Annual funding</td>
<td>$80,000 initial cost; 160 to hours each year to install/configure computers</td>
</tr>
<tr>
<td>Number</td>
<td>Action Area</td>
<td>Action Description</td>
<td>Responsible Person</td>
<td>2011-2012</td>
<td>Employee Benefit</td>
<td>Support</td>
<td>Required Time</td>
</tr>
<tr>
<td>--------</td>
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</tr>
<tr>
<td>1.1.4</td>
<td>Develop and implement a new system for network access from off-campus that does not require the installation of client software; this authentication system will provide permission-level access to all authorized network resources</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2012</td>
<td>Employees can securely access authorized network resources from off-campus</td>
<td>Upgrade existing firewall software</td>
<td>40 hours to research and implement; 8 hours per week of ongoing maintenance and user support</td>
</tr>
<tr>
<td>2.2.1</td>
<td>Develop and publish printer standards to govern the purchasing, installation, repair, supplies, and support of office and lab printers (network and stand-alone) and purchase through the technology clearinghouse</td>
<td>Director of CSS</td>
<td>ISS, CSS</td>
<td>2011-2012 with annual review</td>
<td>Improved communications for printer purchasing and support processes</td>
<td>Funding, Dependent upon the establishment of the technology clearinghouse.</td>
<td>40 hours to develop and 4 hours per semester to update</td>
</tr>
<tr>
<td>2.2.6</td>
<td>Review, maintain, and upgrade existing pay-for-print system in computer labs</td>
<td>Dean of ISS, Director of CSS</td>
<td>ISS, DSS</td>
<td>2011-2015</td>
<td>The pay-for-print system is easier to deploy, maintain, and support in computer labs</td>
<td>Adequate staffing and funding</td>
<td>8 hours per week for ongoing maintenance and user support; use pay-for-print budget</td>
</tr>
<tr>
<td>2.1.1</td>
<td>Develop and implement ongoing funding for institutional software licenses as determined by Program Review</td>
<td>Dean of ISS, Director of CSS, Institutional Program Review Committee (IPRC)</td>
<td>ISS, CSS</td>
<td>2011-2015</td>
<td>Reliable source of funding for institutional software</td>
<td>Prioritization of funding</td>
<td>$100,000 per year</td>
</tr>
<tr>
<td>2.1.2</td>
<td>Develop software library and license documentation to account for all copyrighted software installed on any college-owned computer/server</td>
<td>Dean of ISS, Director of CSS</td>
<td>ISS, CSS, Purchasing</td>
<td>2011-2013</td>
<td>CSS staff can readily locate software or license for any application installed on any computer</td>
<td>Collaboration between CSS, ISS, and Purchasing</td>
<td>160 hours to implement; 10 hours per month for ongoing maintenance</td>
</tr>
<tr>
<td>2.1.3</td>
<td>Create a centralized clearinghouse for institutional software licensing and provide staffing</td>
<td>Director of CSS, VPBFA</td>
<td>CSS, Purchasing</td>
<td>2011-2012</td>
<td>Institutional software licensing is ordered through the staffed centralized clearinghouse</td>
<td>Funding, Staffing for CSS and Purchasing, Coordination with Program Review</td>
<td>60 hours a week for one full-time and one part-time staff person to oversee and purchase all institutional software</td>
</tr>
<tr>
<td>2.1.4</td>
<td>Create a centralized clearinghouse for institutional hardware and peripherals and provide staffing</td>
<td>Director of CSS, VPBFA</td>
<td>CSS, Purchasing</td>
<td>2011-2012</td>
<td>Institutional hardware and peripherals are ordered through the staffed centralized clearinghouse</td>
<td>Funding, Staffing for CSS and Purchasing, Coordination with Program Review</td>
<td>60 hours a week for one full-time and one part-time staff person to oversee and purchase all institutional hardware and peripherals</td>
</tr>
<tr>
<td>Development of policies, procedures, and guidelines for college-wide technology requests, usage, services, and support to be included in the SWC Procedures manual as applicable</td>
<td>Director of CSS</td>
<td>CSS Technology Committee in collaboration with ATC</td>
<td>2011-2013</td>
<td>Users will have a better understanding of technology policies and procedures</td>
<td>Policies and procedures reviewed by SCC</td>
<td>40 hours for the improvement or development of each policy or procedure</td>
<td></td>
</tr>
</tbody>
</table>
**E. NETWORK INFRASTRUCTURE**: Upgrade and maintain the network infrastructure to support comprehensive wireless, voice, video, and data communications with high availability and recoverability.

<table>
<thead>
<tr>
<th>Task Description</th>
<th>Responsible Party</th>
<th>Start Date</th>
<th>Objectives</th>
<th>Sponsoring Organization</th>
<th>Time Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ongoing review of current physical and logical design for the SWC network at all campus locations, focusing on high-availability/ high-bandwidth data (wired/ wireless), video, voice communications</td>
<td>Director of CSS</td>
<td>2011-2015</td>
<td>Documentation of network design</td>
<td>Funding</td>
<td>480 hours</td>
</tr>
<tr>
<td>Replace redundant network switches for the core network at the main distribution facility</td>
<td>Director of CSS</td>
<td>2011-2013</td>
<td>Improved network availability</td>
<td>Infrastructure project; scheduled network outage</td>
<td>Funding; purchase and installation of core switches; 320 hours to research, configure, install</td>
</tr>
<tr>
<td>Install an additional Internet connection to CENIC for redundancy and failover of Internet connectivity</td>
<td>Director of CSS</td>
<td>2011-2015</td>
<td>Improved internet availability and redundancy</td>
<td>CENIC project prioritization</td>
<td>Funding for equipment; 80 hours to coordinate and install</td>
</tr>
<tr>
<td>Upgrade the electrical backup system to provide power for important network services and related devices in case of a power outage</td>
<td>Director of CSS</td>
<td>2011-2015</td>
<td>Operational servers remain accessible during power outages</td>
<td>Funding and site survey</td>
<td>An electrical generator and power system that is connected to the main distribution center</td>
</tr>
<tr>
<td>Task</td>
<td>Action</td>
<td>Responsible</td>
<td>Set up</td>
<td>Task Frequency</td>
<td>Performance Indicators</td>
</tr>
<tr>
<td>------</td>
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</tr>
<tr>
<td>2.2.1</td>
<td>Acquire and implement an enterprise level network monitoring and managing systems at all college locations; develop a service level agreement for network policies and monitoring</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013</td>
<td>Readily monitor and control all necessary network traffic</td>
</tr>
<tr>
<td>2.2.2</td>
<td>Proactively monitor network activity at all SWC locations to detect and remedy network failures or malevolence</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2015</td>
<td>High network availability</td>
</tr>
<tr>
<td>2.2.3</td>
<td>Implement network bandwidth shaping to prevent one type of traffic, such as video, from overwhelming all other types of traffic such as web browsing</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2015</td>
<td>The network will not be overly congested by one type of traffic, such as video.</td>
</tr>
<tr>
<td>2.2.4</td>
<td>Explore and possibly implement a two-factor authentication method for staff and managers who have access to sensitive data</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2015</td>
<td>Staff and managers use two-factor authentication method to access sensitive data.</td>
</tr>
<tr>
<td>ID</td>
<td>ACTION ITEM</td>
<td>RESPONSIBLE</td>
<td>DESIRED OUTCOME</td>
<td>SCHEDULED</td>
<td>DEPENDENCIES</td>
</tr>
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</tr>
<tr>
<td>1.1</td>
<td>Develop and implement a plan to identify and remove older data from the SWC network storage arrays onto a fixed storage medium for long-term archive</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013</td>
<td>More space is available for current network storage needs</td>
</tr>
<tr>
<td>1.2</td>
<td>Provide additional network storage space for employees; In the short-term, this can be accomplished through expanding the existing storage array. In the long-term, new storage technologies may be needed.</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2013</td>
<td>Ample storage space for documents</td>
</tr>
<tr>
<td>1.3</td>
<td>Establish secure offsite storage of all backups and archive data files; establish process for destruction of data storage units</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2012</td>
<td>Secured storage implemented</td>
</tr>
<tr>
<td>1.4</td>
<td>Develop a multi-tiered disaster recovery plan to restore access to critical information resources in case of a catastrophic outage</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2012</td>
<td>An approved disaster recovery plan</td>
</tr>
<tr>
<td>ID</td>
<td>Action Item</td>
<td>Lead Manager</td>
<td>Responsible Unit</td>
<td>Time Frame</td>
<td>Expected Outcomes</td>
</tr>
<tr>
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</tr>
<tr>
<td>3.3.4</td>
<td>Virtual servers to replace physical servers in the SWC domain (employee network); Virtual servers consume less power and are more reliable and expandable than current servers.</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2012</td>
<td>Access to virtual servers</td>
</tr>
</tbody>
</table>
**F. TECHNOLOGY SUPPORT**: Provide ongoing training and technology support services to meet the needs of students, faculty, staff, and managers.

<table>
<thead>
<tr>
<th>ID</th>
<th>Task Description</th>
<th>Key Manager/Responsibilities</th>
<th>Timeline</th>
<th>Key Performance Indicators</th>
<th>Dependency</th>
<th>Required Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>F1</td>
<td>Develop service level agreements (SLAs) for the Help Desks for all SWC locations</td>
<td>Director of CSS, Dean of ISS, Technology Committee</td>
<td>2011-2013</td>
<td>SLAs to cover the major functions of the Help Desks</td>
<td>Collaboration</td>
<td>80 hours for the development of each SLA</td>
</tr>
<tr>
<td>F2</td>
<td>Develop a prioritized staffing plan for hiring additional computer and network staff and management based on Program Review</td>
<td>VPAA, ISS, CSS, Technology Committee, ATC, Human Resources (HR), VPAA</td>
<td>2011-2012</td>
<td>An SCC-approved plan for hiring new technical staff and management</td>
<td>CSS Program Review</td>
<td>80 hours to develop the staffing plan; funding</td>
</tr>
<tr>
<td>F3</td>
<td>Provide employee training workshops on-campus and online throughout the year</td>
<td>VPHR, CSS, Staff Development</td>
<td>2011-2012</td>
<td>Employees are more proficient in the use of these applications.</td>
<td>Employee participation</td>
<td>160 hours per semester for developing/delivering workshops</td>
</tr>
<tr>
<td>Purpose</td>
<td>Responsible Party</td>
<td>Department</td>
<td>Year</td>
<td>Benefit</td>
<td>Conclusion</td>
<td></td>
</tr>
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<td></td>
</tr>
<tr>
<td>Provide ongoing training and cross-training for CSS staff and management to increase their technical proficiencies and knowledge</td>
<td>VPHR</td>
<td>CSS Staff Development</td>
<td>2011-2015</td>
<td>Technical staff are more proficient and able to cover for each other.</td>
<td>Staff and management participation in classes, workshops, conferences, etc. 20 hours per person per year, maximize the use of district funds for management and classified staff training.</td>
<td></td>
</tr>
<tr>
<td>Provide faculty and classified employee training workshops on-campus and online throughout the year</td>
<td>VPHR</td>
<td>CSS Staff Development</td>
<td>2011-2015</td>
<td>Employees are more proficient in the use of these applications.</td>
<td>Employee participation 20 hours per semester for developing/delivering workshops</td>
<td></td>
</tr>
</tbody>
</table>
G. **DIGITAL COMMUNICATIONS**: Develop and support multiple, digital, means of communication between the college, community, and all constituencies.

<table>
<thead>
<tr>
<th></th>
<th>Action Plan</th>
<th>Lead Accountants</th>
<th>Department/Unit</th>
<th>Timeline</th>
<th>Key Activities</th>
<th>Required Resources</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Establish district-wide project to unify communications for voice, email, and emerging technologies</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2015</td>
<td>Unified communication system</td>
<td>District-wide technology infrastructure project</td>
</tr>
<tr>
<td>2</td>
<td>Implement a one-card system for universal access to all District services and transactions</td>
<td>Director of CSS, VPSA, VPBFA, Dean of ISS</td>
<td>Student Services, Bookstore, Library, Cashiering, Facilities</td>
<td>2011-2015</td>
<td>Universal access to all District services and transactions; all District access points are enabled</td>
<td>Collaboration between all relevant College units; distribution of cards and student use of cards for transactions</td>
</tr>
<tr>
<td>3</td>
<td>Collaboratively develop and implement a project plan for best utilizing the district portal for college communications, student communications, online forms, etc.</td>
<td>Director of CSS</td>
<td>CSS</td>
<td>2011-2015</td>
<td>Portal project plan</td>
<td>Installation of portal and expansion to SWC</td>
</tr>
<tr>
<td>4</td>
<td>Develop new and updated web pages for all offices and departments on campus (required activity)</td>
<td>Director of CMR</td>
<td>All units</td>
<td>2011-2013</td>
<td>All departments are represented on the website with current information</td>
<td>Employee involvement from each department</td>
</tr>
<tr>
<td>Task Description</td>
<td>Responsible Party</td>
<td>Completion Date</td>
<td>Result</td>
<td>Facilitators</td>
<td>Time Commitment</td>
<td></td>
</tr>
<tr>
<td>---------------------------------------------------------------------------------</td>
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<td></td>
</tr>
<tr>
<td>Hire staff to support faculty in creation and porting of web pages on SWC Website</td>
<td>VPBFA, Director of CMR</td>
<td>2011-2013</td>
<td>All faculty pages moved to SWC website</td>
<td>Employee participation</td>
<td>16 hours per week for supporting page development</td>
<td></td>
</tr>
<tr>
<td>Ongoing review and improvement of the search engine and navigational links of the website through extensive user testing</td>
<td>Director of CMR</td>
<td>2011-2013</td>
<td>Users can readily find information on the website using search or navigation</td>
<td>Stakeholder input</td>
<td>240 hours for testing and implementation</td>
<td></td>
</tr>
<tr>
<td>Remove former SWC website (www2.swccd.edu) from the internet; provide SWC employees with at least three months of advance notification of when the former website will be removed</td>
<td>Director of CMR</td>
<td>2011-2014</td>
<td>Website removed</td>
<td>All necessary information from the former website is provided on the new website</td>
<td>24 hours to check the former web services and decommission the website</td>
<td></td>
</tr>
<tr>
<td>5.5</td>
<td>Provide additional audio and video conferencing resources to connect individuals/groups between all SWC locations using either software-based systems or new video conferencing units if needed; encourage the use of videoconferencing to reduce travel</td>
<td>VPHR</td>
<td>CSS</td>
<td>2011-2012</td>
<td>Available audio-video conferencing resources for meetings spanning both locations</td>
<td>Appropriate network access between meeting locations; appropriate lighting and sound at each conferencing location</td>
</tr>
<tr>
<td>5.6</td>
<td>Implement a college-wide emergency notification system to send alerts to students and/or employees in a matter of minutes via one or more self-selected communication means; examples include class cancellations, power outages, etc.; consider digital signage</td>
<td>VP8FA Chief of Campus Police Director of CMR</td>
<td>CSS Campus Police CMR</td>
<td>2011-2012</td>
<td>Notifications can be readily sent to students or employees</td>
<td>Input from Administration and Finance, ISS, Student Services</td>
</tr>
<tr>
<td>5.4</td>
<td>Create an emerging technology Special Interest Group (SIG) to apprise the Technology Committee of new developments in emerging technologies</td>
<td>Director of CSS</td>
<td>Technology Committee</td>
<td>2011-2015</td>
<td>The Technology Committee and interested parties have updated information about emerging communication technologies</td>
<td>Participation in SIG Participation in users’ groups</td>
</tr>
</tbody>
</table>
**Governing Board Institutional Goals** as finalized at the April 7, 2011 Study Session

**GOAL 1:** Ensure restoration of full accreditation status and continue to use accreditation standards to guide strategic planning and operations.

**GOAL 2:** Continue development of integrated data systems that provide information for measurable student success that support college operations, and institutional decision-making. Build a culture of evidence.

**GOAL 3:** Ensure that the College District budget effectively addresses the current fiscal crisis and provides fiscal stability to maintain instructional, student support, and operational integrity.

**GOAL 4:** Ensure a state-of-the-art teaching, learning, and work environment, including but not limited to technological advancements.

**GOAL 5:** Taking into consideration anticipated severe budget reductions, develop a plan to prioritize the SCCD focused Mission for the determination of resource allocation.

**GOAL 6:** Optimize resources and generate revenue for and through programs, partnerships, and grants.

**Governing Board Performance Goals**, as finalized at the April 7, 2011 Study Session:

- The Board identified the following goals to enhance its own performance as a board. These goals will be included as criteria in the next board self-evaluation.
- Monitor progress on the board goals for the institution, including establishing objectives and a timeline in conjunction with the Interim Superintendent/President.
- Implement a study session schedule for board education and monitoring.
- Continue review and updating of board policies.
- Expect board members to be visible and involved in the community, including with business, industry, education, labor and civic organizations.
- Conduct a search for a permanent Superintendent/President and hire an outstanding candidate.
- Review the board self-evaluation process and criteria prior to the next cycle and implement changes as appropriate.
<table>
<thead>
<tr>
<th>Item</th>
<th>Person Responsible</th>
<th>GB Meeting/Comment</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Freedom of Expression Policy</td>
<td>Kerns</td>
<td>Submit to 2/9/11 GB meeting</td>
<td>Completed: Policy 3900 Freedom of Expression went through the shared consultation process and has been submitted for the February 9 Board meeting.</td>
</tr>
<tr>
<td>2. Legal Opinion regarding local vendor preference and what is</td>
<td>Alioto</td>
<td>Legal opinion to be provided to S/P for routing to Board. Previous opinion also will be provided to S/P for Board.</td>
<td>Completed: Received and distributed to Board President.</td>
</tr>
<tr>
<td>considered an emergency economic state</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Parking Citation Schedule</td>
<td>Alioto</td>
<td>To be submitted for a future GB meeting as appropriate</td>
<td>Pending Collegial Consultation Process: Item will be discussed at next SCC meeting.</td>
</tr>
<tr>
<td>4. Employee comments made during Oral Communication</td>
<td>Kerns</td>
<td>Referred to Acting S/P for follow up</td>
<td>Information: Employee is going through the appropriate grievance process. No Further Board Action</td>
</tr>
<tr>
<td>5. Process for Notification of District retirements (timeline)—does it include enough time for institutional planning purposes</td>
<td>Kerns</td>
<td>Referred to Acting S/P for follow up</td>
<td>Information: There is no required timeline for employees to notify the District of their intent to retire/resign. Employees are required to provide a letter of resignation. No Further Board Action</td>
</tr>
<tr>
<td>6. Resolution to Rename Library</td>
<td>Meadows</td>
<td>Submit for 2/9/11 GB meeting</td>
<td>Pending: Item will be discussed at SCC meeting, following Policy and Procedures regarding the Naming of Buildings.</td>
</tr>
<tr>
<td>7. Review need for security coverage at Otay during non-operational hours</td>
<td>Meadows</td>
<td>Referred to Acting S/P for follow up</td>
<td>Information: Current security coverage is necessary. Reviewed by interim S/P and VPs. Recommend continue to provide $13,000 for security as requested. No Further Board Action</td>
</tr>
<tr>
<td>8. Investment Banking Agreement</td>
<td>Alioto</td>
<td>Postponed until next board meeting</td>
<td>Completed: Resubmitted for 2/9/11 GB meeting.</td>
</tr>
<tr>
<td>9. Accreditation Mailer — PO # 105896</td>
<td>Alioto</td>
<td>Re-Submit PO for 2/9/11 GB meeting for approval as it was pulled at the 12/8/10 meeting.</td>
<td>Completed: PO # 105896 has been resubmitted on the February 9 Board agenda. Information: PO has been paid; legal opinion provided to Board President.</td>
</tr>
<tr>
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<tr>
<td>11.</td>
<td>2.9.11 Board Meeting Requested by Hernandez</td>
<td>Completed: Report submitted for March 9 Board agenda.</td>
<td>Siuacez</td>
</tr>
<tr>
<td>12.</td>
<td>3.9.1 Board Meeting Requested by Aguilar</td>
<td>Completed: Report submitted for March 9 Board agenda.</td>
<td>Kermid/Kerns/Whittaker/Whittaker</td>
</tr>
<tr>
<td>13.</td>
<td>3.9.11 Board Meeting Requested by Aguilar</td>
<td>Pending: In confering with legal counsel, Mary Dowell (Liebert, Cassidy, and Whittmore), it is not legal to give priority to hire from within, or only within the institution. Unless there is a direct plan for reorganization which results in the non-backfilling of a vacancy. Both components must exist. We anticipate that the Early Retirement Incentive Plan will result in vacancies, allowing the College District to reorganize areas for efficiency, resulting in the non-backfilling of vacancies, and in this case, in-house employees will be afforded the opportunity to apply for vacant positions. It is only in the case of a reorganization that results in the non-replacement of a vacant position that we are permitted by law to hire from within first.</td>
<td></td>
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<tr>
<td>14.</td>
<td>3.9.11 Board Meeting</td>
<td>Pending: Trustee Aguilar asked if a policy could be developed through our shared consultation process to provide a priority for small, local business vendors.</td>
<td>Whittaker/Kerns</td>
</tr>
<tr>
<td>15.</td>
<td>3.9.11 Board Meeting</td>
<td>Pending: This item is being referred to Interim VP/EPA for draft development and then to the Shared Consultation Council for constituent review and ultimate presentation to the Governing Board.</td>
<td></td>
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</tbody>
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