

COAST COMMUNITY COLLEGE DISTRICT

ARCHITECTURAL SERVICES AGREEMENT

This ARCHITECTURAL SERVICES AGREEMENT (“AGREEMENT”) is made in the County of Orange, State of California, and entered into on _____, 200_ between the Owner, COAST COMMUNITY COLLEGE DISTRICT, a public educational agency, hereinafter referred to as “DISTRICT” and _____ a _____, hereinafter referred to as “ARCHITECT.”

WHEREAS, DISTRICT desires to obtain architectural services for the _____ [NAME OF PROJECT], “PROJECT;” and

WHEREAS, ARCHITECT warrants and represents to DISTRICT that ARCHITECT is properly licensed (license no. _____) and has the experience, expertise and resources to successfully complete the PROJECT and will provide timely architectural services in conformity with the laws of the State of California;

NOW, THEREFORE, the parties agree as follows:

ARTICLE I -- ARCHITECT’S SERVICES AND RESPONSIBILITIES

1. ARCHITECT, by this AGREEMENT, accepts the relationship of trust and confidence established between ARCHITECT and DISTRICT. ARCHITECT covenants with DISTRICT to furnish the necessary professional skill and judgment in accordance with the level of care and skill exercised by members of the profession or occupation currently practicing under similar conditions and in similar locations, and under California law applicable to those specializing in providing architectural services for projects of the type, scope and complexity of the PROJECT in performing all services under this AGREEMENT. ARCHITECT shall use its best professional efforts to complete the PROJECT in an expeditious and economical manner consistent with the interests and goals of DISTRICT. DISTRICT expects that ARCHITECT shall take all special precautions necessary to protect the ARCHITECT’s employees, DISTRICT’s employees, and members of the public from risk of harm arising out the nature of the work.

2. This AGREEMENT, once signed by ARCHITECT and approved by DISTRICT, is restricted to only the PROJECT.

3. ARCHITECT shall provide services described in Articles I, II and III of this AGREEMENT, and other services as described in Article IX.

4. Upon request of DISTRICT, ARCHITECT shall submit for DISTRICT’s approval a schedule for performance of ARCHITECT’s services which may be adjusted with DISTRICT’s written approval as the PROJECT proceeds (“PROJECT SCHEDULE”). The PROJECT SCHEDULE shall include allowances for time required for DISTRICT’s review, and for approvals required by authorities having jurisdiction over the PROJECT. ARCHITECT shall not exceed the time limits established by the PROJECT SCHEDULE and approved in writing by DISTRICT, except for reasonable and good cause as approved in writing by DISTRICT.

5. ARCHITECT may be required to utilize Expedition 9.0 or latest version for tracking of each construction project.

6. In the event of a conflict between the provisions of any exhibit to this AGREEMENT and this AGREEMENT, the provisions of this AGREEMENT shall govern.

7. Each design phase (Project Program Schematic Design, Design Development, and Construction Documents) shall be subject to a separate written authorization to proceed issued by DISTRICT. Work on a design phase shall not commence until issuance of the appropriate written authorization to proceed. Work on a design phase shall be based on documents, if any, from the prior phase approved by DISTRICT in writing, any written directives by DISTRICT with respect thereto, and any adjustments authorized by DISTRICT in the PROJECT Program or Construction Budget.

8. ARCHITECT shall comply with all applicable federal, state, county and city statutes, regulations and ordinances, and shall maintain all necessary licenses and permits. ARCHITECT 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, age or disability.

9. DISTRICT may retain, or has retained, a Construction Manager whose services, duties and responsibilities will be described in a written Construction Management Agreement by and between DISTRICT and Construction Manager. The Construction Manager is or will be the DISTRICT's agent in providing the services specified in the Construction Management Agreement. ARCHITECT must perform its services in cooperation with the Construction Manager, consistent with this AGREEMENT and the Construction Management Agreement, and in accordance with the planning and scheduling requirements and budgetary restraints of the PROJECT as determined by DISTRICT and documented by ARCHITECT. DISTRICT will provide to ARCHITECT a copy of the Construction Management Agreement between DISTRICT and Construction Manager.

ARTICLE II -- ARCHITECT'S BASIC SERVICES

1. ARCHITECT's basic services consist of those described in this Article, and shall include normal structural, mechanical and electrical engineering services and any other engineering and/or consulting services necessary to produce a reasonably complete and accurate set of construction documents as described in this Article, excepting only those engineering services provided by DISTRICT as set forth below.

2. To the extent deemed necessary by ARCHITECT, ARCHITECT shall employ architects, mechanical engineers, electrical engineers, structural engineers, civil engineers, and other consultants as necessary for the provision of services under this AGREEMENT. All consultants, including engineering consultants, employed by ARCHITECT shall maintain any required applicable license and shall be paid by ARCHITECT. ARCHITECT shall submit, for approval by DISTRICT, names of consultants for each professional element of service of the PROJECT. Nothing in the foregoing shall create any contractual relationship between DISTRICT and any consultants employed by ARCHITECT under the terms of this AGREEMENT. ARCHITECT is as responsible for the performance of its consultants as it would be if it had rendered these services itself.

3. ARCHITECT shall use only qualified consultants on the PROJECT, and shall submit a list of such qualified consultants for DISTRICT's approval. ARCHITECT shall ensure that each consultant places his or her name, seal and signature on all drawings and specifications prepared by said consultant.

4. ARCHITECT shall assist DISTRICT in the preparation of the PROJECT program to ascertain DISTRICT's needs and the program requirements of the PROJECT and shall arrive at a mutual understanding of such needs with DISTRICT in writing prior to drafting preliminary designs for the PROJECT.

5. ARCHITECT shall provide a written preliminary evaluation of the PROJECT program, schedule and construction budget requirements, each with reference to the other.

6. ARCHITECT shall develop, design, and provide value engineering alternatives, if required to meet budget objectives for items included within the scope of this AGREEMENT and will review same with DISTRICT.

7. Based on the PROJECT program, schedule, and construction budget requirements, ARCHITECT shall prepare, for approval by DISTRICT, Schematic Design Documents consisting of drawings and other documents depicting the PROJECT, and illustrating the scale and relationship of PROJECT components. These documents shall comply with all applicable laws, statutes, ordinances, codes, standards, rules and regulations in force as of the date of this AGREEMENT and at the time of any subsequent changes to the documents.

8. As part of Schematic Design, ARCHITECT shall also submit to DISTRICT a written preliminary estimate of Construction Costs.

9. Based on the approved Schematic Design Documents and any adjustments authorized by DISTRICT, ARCHITECT shall prepare, for approval by DISTRICT, Design Development Documents consisting of drawings and other documents to define and describe the size and character of the PROJECT as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

10. Based on the approved Design Development Documents and any further adjustments in the scope, timing, nature or quality of the PROJECT, or the construction budget authorized by DISTRICT, ARCHITECT shall prepare, for approval by DISTRICT, Construction Documents consisting of Drawings and Specifications setting forth in detail the terms and requirements for the construction of the PROJECT.

11. As part of preparation of Construction Documents, ARCHITECT shall advise DISTRICT in writing of any adjustments to the estimates of Construction Costs.

12. ARCHITECT may rely on the information provided by DISTRICT but only to the extent such reliance is consistent with ARCHITECT's obligations under this AGREEMENT. ARCHITECT shall carefully examine the site and existing conditions and facilities; and, shall review site surveys, existing record documents, seismic data, mechanical, geotechnical, and other test reports; environmental documents, and any other documentation furnished by DISTRICT. From examination of the site and a review of available information, ARCHITECT shall determine whether such data are sufficient for purposes of design or whether additional data are needed. If additional data and/or services are needed, ARCHITECT shall recommend the manner in which the data should be provided and/or the services obtained.

13. ARCHITECT shall file all documents required for the approval of governmental authorities having jurisdiction over the PROJECT with notice to and assistance of DISTRICT.

14. Following DISTRICT's written approval of the Construction Documents and of the latest preliminary estimate of Construction Cost, ARCHITECT shall assist DISTRICT in obtaining bids.

15. ARCHITECT shall prepare the necessary bidding information, bidding forms, plans and/or specifications for the PROJECT.

16. ARCHITECT shall include in the bidding information, plans, and/or specifications a requirement that the Contractor provide operation manuals and adequate training for the DISTRICT in the operation of mechanical, electrical, heating and air conditioning systems installed by the Contractor, among other materials and information necessary for the work.

17. ARCHITECT shall make reasonable and necessary changes to its Bidding Documents by preparing necessary addenda.

18. ARCHITECT shall also provide services for the administration of the Contract for Construction as set forth below.

19. ARCHITECT's responsibility to provide services for the Construction Phase under this AGREEMENT commences with the award of the Contract for Construction and terminates with recordation of the Notice of Completion and final payment to the Contractor and closure with the Division of State Architect (DSA).

20. If the lowest bid exceeds the budget for the PROJECT by more than 10%, ARCHITECT, in consultation with and at the direction of DISTRICT, shall provide written documentation of such modifications in the contract documents to bring the cost of the PROJECT within its budget. ARCHITECT and its consultants shall provide for changes required to the bid documents to prepare them for rebidding at no additional cost to DISTRICT, including printing costs.

21. ARCHITECT shall designate a qualified and licensed architect, as the PROJECT Architect. So long as the PROJECT Architect performs in a manner acceptable to DISTRICT, and remains in ARCHITECT's employ, the PROJECT Architect shall remain in charge of all design and other services required under this AGREEMENT, and shall attend design-related meetings for the PROJECT. Any substitution of the PROJECT Architect must be mutually acceptable to ARCHITECT and DISTRICT.

22. The duties, responsibilities and limitations of authority of ARCHITECT shall not be modified or extended without written agreement of DISTRICT.

23. The licensed Project ARCHITECT shall be a representative of and shall advise and consult with DISTRICT on a regular basis during construction. ARCHITECT shall have authority to act on behalf of DISTRICT only to the extent provided in this AGREEMENT unless otherwise authorized in writing by DISTRICT.

24. ARCHITECT shall recommend rejection of work that does not conform to any of the following: the Contract Documents; ARCHITECT's directives; applicable code requirements; approved Shop Drawings, Product Data, and Samples; Clarification Drawings; or

defective work. Such rejection will be transmitted to DISTRICT's representative in writing for communication to contractor.

25. ARCHITECT shall recommend special inspection or testing of the work in accordance with the provisions of the Contract Documents if, in ARCHITECT's reasonable professional opinion, such inspection or testing is necessary or advisable for the implementation of the Contract Documents, regardless of the state of completion of the work subject to such inspection or testing.

26. ARCHITECT shall review inspection reports, laboratory reports, and test data to determine conformity of such data with the design requirements expressed, implied, or depicted in the Contract Documents; approved Shop Drawings, Product Data and Samples; and Clarification Drawings. ARCHITECT shall also recommend to the DISTRICT's representative, in writing, about actions that need to be taken by DISTRICT's representative, as determined from ARCHITECT's PROJECT site visits, inspection reports, laboratory reports, and test data or from Contractor proposals, or other relevant documents.

27. Except as otherwise provided in the Contract Documents or as directed by DISTRICT, all written communications with Contractor shall be sent and received by DISTRICT's representative. ARCHITECT shall advise and consult with DISTRICT's representative and shall keep DISTRICT's representative informed of the observed progress of the work. ARCHITECT shall render written or graphic interpretations and decisions that are consistent with the intent of, and reasonably inferable from, the Contract Documents; review and recommend any action to be taken regarding Contractor's required submittals; and evaluate, with the DISTRICT's representative, the equivalence of proposed substitutions for materials, products, or services specified by brand or trade names in the Contract Documents and recommend either approval or rejection of substitutions as being equal in quality, utility and appearance.

28. ARCHITECT and/or Consultants shall visit and carefully observe the site not less than once per week while work is in progress, or more often as necessary and appropriate to the stage of construction, to familiarize ARCHITECT with the progress and quality of the work, and to determine whether the work is proceeding in accordance with the intent of the contract documents and construction schedule. On the basis of its on-site observations, ARCHITECT shall keep DISTRICT informed of the progress and quality of the work and shall use reasonable care to guard against defects and deficiencies in the work and against the Contractor's failure to carry out the work in accordance with the intent of the construction documents and the construction schedule. Without limiting any other remedies, ARCHITECT shall provide at ARCHITECT's cost all architectural services made necessary by defects or deficiencies, which through reasonable care should have been discovered by ARCHITECT and promptly reported to DISTRICT.

29. ARCHITECT shall review and approve or take other appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, etc. ARCHITECT's action shall be taken with such reasonable promptness as to cause no delay in the work, while allowing sufficient time in ARCHITECT's professional judgment to permit adequate review.

30. ARCHITECT shall make off-site observations of fabricated materials and equipment when such off-site checks are specified in the Contract Documents.

31. All on-site and off-site observations shall be conducted deliberately and thoroughly. The frequency, duration, and extent of such observations shall be appropriate to and

for: the progress, character, and complexity of the work; design issues or questions of concern to ARCHITECT, its consultants, DISTRICT's representative or as noted in any inspection reports furnished to ARCHITECT; the observed quality of Contractor's performance during previous visits; the review of construction of crucial components of the work; and the observation of the performance of specified or DISTRICT's directed tests significant to the acceptability of crucial components of the work. Such observations shall also be timely performed when reasonably requested by DISTRICT.

Observations shall be for the purpose of ascertaining the progress of the work; that the character, scope, quality and detail of construction (including workmanship and materials) are in compliance with the design expressed in the Contract Documents, DISTRICT's representative directives, approved product data and samples and clarification drawings. Observations shall be separate from any inspections which may be provided by DISTRICT. DISTRICT's provision of inspection services, if any, shall not relieve ARCHITECT of its responsibilities under this AGREEMENT.

32. ARCHITECT shall not have control of or responsibility for construction means, methods, techniques, sequences or procedures, or safety precautions and programs.

33. ARCHITECT shall certify the amounts due the Contractor based on ARCHITECT's observations and evaluation of the Contractor's Applications for Payment.

34. ARCHITECT's certification for payment shall constitute a representation to DISTRICT that the work has progressed to the point indicated and that the quality of the work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the work for conformance with the Contract Documents upon substantial completion, to results of subsequent tests and inspections, to minor deviations from the Contract Documents correctable prior to completion and to specific qualifications expressed by ARCHITECT. The issuance of a Certificate for Payment shall further constitute a representation to DISTRICT that the Contractor is entitled to payment in the amount certified.

35. ARCHITECT shall identify and reject work that does not conform to the Contract Documents and shall advise DISTRICT in writing of the same. Whenever ARCHITECT considers it necessary or advisable for implementation of the intent of the Contract Documents, ARCHITECT shall recommend to DISTRICT additional inspection or testing of the work in accordance with the provisions of the Contract Documents, whether or not such work is fabricated, installed or completed. This authority of ARCHITECT nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of ARCHITECT to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons performing portions of the work.

36. ARCHITECT shall attend regular construction meetings scheduled to occur, plus special meetings as they are deemed necessary by DISTRICT.

37. ARCHITECT shall prepare Change Orders and Construction Change Directives, with supporting documentation and data if deemed necessary by ARCHITECT as provided in Article III for DISTRICT's approval and execution in accordance with the Contract Documents, and may authorize minor changes in the work not involving an adjustment in the Contract Sum or an extension of the Contract Time that are consistent with the intent of the Contract Documents. ARCHITECT shall evaluate Contractor's proposals for possible change orders. ARCHITECT shall prepare a set of reproducible record drawings showing significant changes in the work made during construction based on marked-up prints, drawings and other data furnished

by the Contractor to ARCHITECT after the Project is deemed substantially complete by the ARCHITECT and the DISTRICT.

38. ARCHITECT shall accompany and assist DISTRICT representative and DISTRICT with punch list inspections to determine Beneficial Occupancy, Substantial Completion, and Final Completion. ARCHITECT shall advise on the issuance of the Certificate of Beneficial Occupancy and the Certificate of Substantial Completion in accordance with the Construction Contract Documents.

39. ARCHITECT shall (i) evaluate the PROJECT to determine the date of substantial completion and the date of final completion, (ii) receive and forward to DISTRICT for DISTRICT's review and records written warranties and related documents required by the Contract Documents and assembled by the Contractor, and (iii) shall issue a final Certificate for Payment upon compliance with the requirements of the Contract Documents. ARCHITECT and ARCHITECT's consultants shall prepare reproducible record drawings based upon the contractor's as-built drawings of the completed PROJECT, and shall review and approve or reject all operations and maintenance manuals submitted by the Contractor.

40. ARCHITECT shall interpret and decide matters concerning the performance of the Contractor under the requirements of the Contract Documents when requested in writing by DISTRICT. ARCHITECT's response to such requests shall be made with reasonable promptness and within any time limits agreed upon. ARCHITECT's responsibilities shall also include, but not be limited to, periodic site observations, review of submittals, preparation of documents for proposed changes, and general consultation to DISTRICT on design matters. ARCHITECT shall be fully responsible for all matters related to the ARCHITECT's design and all of the ARCHITECT's recommendations to DISTRICT which are carried out by DISTRICT without substantive change.

41. Except as otherwise provided in the Contract Documents or as directed by DISTRICT, all written communications with Contractor shall be sent to DISTRICT. ARCHITECT shall advise and consult with DISTRICT representative and shall keep DISTRICT representative informed of the observed progress of the work. ARCHITECT shall render written or graphic interpretations and decisions that are consistent with the intent of, and reasonably inferable from, the Contract Documents; review and recommend any action to be taken regarding Contractor's required submittals; and evaluate, with DISTRICT's representative, the equivalence of proposed substitutions for materials, products, or services specified by brand or trade names in the Contract Documents and recommend either approval or rejection of substitutions as being equal in quality, utility and appearance.

42. ARCHITECT shall provide services in connection with evaluating substitutions proposed by the Contractor and making subsequent revisions to Drawings, Specifications and other documentation resulting therefrom.

43. ARCHITECT shall perform all construction phase services, evaluate and render written decisions, within a reasonable time on all claims, disputes or other matters in question between DISTRICT and Contractor relating to the execution or progress of the work as provided in the Contract Documents. ARCHITECT shall not delay its interpretations, decisions, reviews, or any other functions pursuant to this AGREEMENT so as to cause or contribute to a disruption of construction or delay in completion of the PROJECT.

44. ARCHITECT's decisions on claims, disputes or other matters, including those in question between DISTRICT and Contractor, shall be subject to arbitration as provided in Article XI.

45. ARCHITECT and ARCHITECT's consultants shall prepare their drawings on a CAD system acceptable to DISTRICT and provide to DISTRICT one set of reproducible drawings and a CD-ROM, 600MB, formatted according to AUTOCAD, 2000 or later version. At conclusion of PROJECT, ARCHITECT shall provide to DISTRICT an updated as-built set of reproducible drawings and an updated CD-ROM.

46. ARCHITECT shall assist DISTRICT in fulfilling the requirements of the authorities and funding agencies whose interests bear on the design, cost, and constructions of the PROJECT.

47. ARCHITECT shall abide by all regulations imposed by authorities having jurisdiction over the PROJECT.

48. ARCHITECT shall fully cooperate with other professionals and/or consultants DISTRICT may employ for work related to the PROJECT.

49. ARCHITECT shall consult with authorized employees, agents and representatives of DISTRICT relative to the design and construction of the PROJECT.

50. ARCHITECT, after consulting with Construction Manager, shall certify payment for proper payment requests of Contractor.

51. In addition to the foregoing, ARCHITECT's Basic Services shall also include the following:

- a. Program Confirmation: ARCHITECT shall, with DISTRICT and college project committee, review any previously established Program and Design Scope Documents for confirmation of understanding and identification of detailed requirements for equipment and fixtures. All documents shall be in accordance with all regulations and DISTRICT's health and safety standards.
- b. Existing Site Conditions. ARCHITECT and its consultants shall review existing site conditions and information with respect to infrastructure required to support the PROJECT. ARCHITECT shall identify any existing conditions and design with consideration of such conditions.
- c. Civil Engineering: Civil Engineering shall consist of grading, drainage and horizontal control plans, and on-site utility plans including sewer, water, and storm drain systems subject to pollution prevention requirements.
- d. Landscape Architecture: Landscape architecture services shall consist of development of landscape and irrigation plans for site improvements consistent with DISTRICT standards, materials and systems.

- e. Acoustic Engineering: Engineering services shall consist of design recommendations for mitigation of noise originating from the operations contained within the proposed facility.
- f. Cost Control: Cost Control Services shall consist of review of PROJECT budget previously established, evaluation of design development recommendations/options and provide DISTRICT with periodic updated estimates at the design development and construction document phases.
- g. Low Voltage Services: Low voltage services shall include coordination and development of low voltage systems infrastructure to support the renovation of the facility including telephone systems, administrative data, wireless applications, CCTV (surveillance and security systems) MATV/CATV systems, key/access systems, and audiovisual systems.
- h. Audiovisual Consulting Services: Audiovisual consulting services shall include development, coordination, and specification of integrated audiovisual systems to support instruction consistent with DISTRICT standards, materials and systems.

ARTICLE III -- ADDITIONAL SERVICES

1. The services described in this Article shall only be provided if authorized in writing by DISTRICT.

2. The services described in this Article III are in addition to ARCHITECT's Basic Services and shall be paid for by DISTRICT as extra compensation as provided in Article VIII, paragraphs 2 and 3 of this AGREEMENT.

3. ARCHITECT shall notify DISTRICT in writing of the need for contingent or optional additional services prior to commencing such services. If DISTRICT deems that such services are required, DISTRICT shall give written authorization to ARCHITECT. Architect shall have no obligation to provide all or part of such Contingent Additional Services or Optional Additional Services that are required, and District shall have no obligation to pay for such services, without District first providing written approval for these services.

a. Contingent Additional Services shall include:

(1) Making material revisions to Drawings, Specifications or other documents when such revisions are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents.

(2) Preparing Drawings, Specifications and other documentation and supporting data, and providing other services in connection with Change Orders and Construction Change Directives required by causes not within control of ARCHITECT.

(3) Providing consultation concerning replacement of work damaged by fire or other natural causes during construction, and furnishing services required in connection with the replacement of such work.

(4) Making material revisions in Drawings, Specifications or other documents when such revisions are requested in writing by the DISTRICT.

b. Optional Additional Services shall include:

(1) Providing other special studies requested in writing by DISTRICT.

(2) Providing services required for or in connection with the selection, procurement or installation of moveable furniture, furnishings and related equipment.

(3) Providing services for planning tenant improvements or rental spaces when not included in original design of the PROJECT.

ARTICLE IV -- DISTRICT'S RESPONSIBILITIES

1. DISTRICT, in consultation with ARCHITECT, will provide to ARCHITECT all reasonably available information requested regarding requirements for the PROJECT, and will assist in preparation of a PROJECT program containing DISTRICT's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

2. With ARCHITECT's assistance, DISTRICT shall establish an overall budget for the PROJECT, and may in its sole discretion update such budget.

3. If requested, DISTRICT shall furnish ARCHITECT with any available surveys describing physical characteristics, legal limitations and utility locations for the site of the PROJECT, and a written legal description of the site.

4. DISTRICT shall provide the following to ARCHITECT if available:

a. Sub-Surface Soils Investigation

b. Topographic and Boundary Survey, including easements.

c. Information regarding the location of existing surface improvements affecting the PROJECT site and existing topographic plan of the proposed PROJECT area based on aerial photography.

5. DISTRICT shall have the right to make changes to the PROJECT program.

6. DISTRICT will make reasonable efforts to see that agreements between DISTRICT and Construction Manager are consistent with this AGREEMENT. DISTRICT will provide a copy of this AGREEMENT to Construction Manager.

ARTICLE V -- USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

1. DISTRICT reserves the right to select the method of document reproduction and to establish where the reproduction will be accomplished. ARCHITECT shall provide copies of

the Construction Documents in the number required by DISTRICT. Reproduction expense shall be borne by DISTRICT.

2. All presentation and construction Drawings, Specifications and other documents prepared by ARCHITECT for this PROJECT shall be and remain the property of DISTRICT. The Drawings, Specifications, and Construction Documents shall not be used in whole or in substantial part by ARCHITECT on other projects.

3. DISTRICT may use the Construction Documents, the Drawings and Specifications and the designs depicted in them without ARCHITECT's consent, without additional compensation to ARCHITECT, and for any purpose, including but not limited to the following:

- a. On or in connection with the PROJECT, including without limitation, future additions, alterations, connections, repairs, information, reference, use or occupancy; and
- b. On other projects.
- c. In the event of reuse or modification of ARCHITECT's drawings, specifications or other documents on other projects, the names and seals of the architects and ARCHITECT's consultants, if any, shall be removed from the ARCHITECT's drawings, specifications or other documents and DISTRICT agrees to indemnify, defend and hold ARCHITECT harmless from and against all claims, liabilities, suits, demands, losses, costs, and expenses including reasonable attorneys' fees arising out of DISTRICT's reuse or modification of ARCHITECT's drawings, specifications or other documents.

4. All presentation drawings, slides, models, and any other related documents shall become and remain the property of DISTRICT, and may be used by the DISTRICT for any purpose without ARCHITECT's consent and without additional compensation to ARCHITECT.

ARTICLE VI -- TERM, TERMINATION, SUSPENSION OR ABANDONMENT

1. This AGREEMENT shall commence on the effective date and continue through final completion of the PROJECT, and shall conclude upon obtaining the Certificate of Beneficial Occupancy, Certificate of Substantial Completion, final acceptance by the DISTRICT Board of Trustees and final closeout with DSA.

2. DISTRICT shall have the right to suspend the PROJECT at any time at its sole discretion. If the PROJECT is suspended by DISTRICT for more than ninety (90) consecutive days, ARCHITECT shall be compensated for services performed prior to notice of such suspension and shall not be compensated for any unearned fees or costs or anticipated profits on non-performed services.

3. This AGREEMENT may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this AGREEMENT through no fault of the party initiating the termination.

4. DISTRICT shall also have the right to terminate this AGREEMENT at any time in its sole discretion and without cause upon not less than seven (7) days written notice to ARCHITECT. In that event, ARCHITECT shall be compensated for services performed prior to notice of termination and shall not be compensated for any unearned fees, costs or anticipated profits on non-performed services. In the event of termination by either party, ARCHITECT shall not be entitled to any unearned fees or costs or anticipated profits and shall be liable for damages suffered by DISTRICT due to ARCHITECT's failure to perform as provided in the AGREEMENT.

5. In the event of AGREEMENT termination by either party, DISTRICT reserves the right to receive, and ARCHITECT shall promptly provide to DISTRICT, all Drawings, Specifications, models, and other documents and materials prepared by ARCHITECT or others for the PROJECT. In the event of termination, any dispute regarding the amount to be paid shall not alter DISTRICT's unequivocal right to receive and use any such documents or materials on termination.

ARTICLE VII -- PAYMENTS TO THE ARCHITECT

1. Payments for ARCHITECT's Basic Services shall be made monthly upon presentation of ARCHITECT's statement of services rendered and, where applicable, shall be in proportion to services performed within each phase of service, on the basis set forth in Article VIII, paragraph 1.

2. Payments for ARCHITECT's Additional Services authorized in writing by DISTRICT shall be made monthly upon presentation of ARCHITECT's statement of services rendered.

3. Reimbursable Expenses are in addition to compensation for ARCHITECT for Basic and Additional Services and include expenses actually incurred by ARCHITECT and ARCHITECT's employees and consultants for the PROJECT, as follows:

- a. If authorized in writing in advance by DISTRICT, expenses in connection with authorized out-of-town travel, and fees paid for securing approval of authorities having jurisdiction over the PROJECT. Unless authorized in writing in advance DISTRICT will not reimburse ARCHITECT's employees and consultants for travel time or expense for traveling to/from office and the PROJECT or other locations.
- b. If authorized in writing in advance by DISTRICT, expense of overtime work requiring higher than regular rates.
- c. If authorized in writing in advance by DISTRICT, expense of extra renderings, models, mock-ups, and bid documents.
- d. Plotting, copies and reproductions of plans and other documents as requested in writing by DISTRICT.
- e. ARCHITECT shall concurrently provide all supporting documentation of actual expenditures.

4. DISTRICT will not pay for personal or special delivery or mailing charges unless authorized in writing in advance by DISTRICT.

5. DISTRICT shall make reasonable efforts to pay each invoice within thirty (30) days after DISTRICT's receipt thereof provided complete backup documentation is delivered with the invoice. DISTRICT shall make a reasonable effort to promptly review each invoice and raise any questions or dispute in writing within twenty (20) days of receipt thereof.

ARTICLE VIII -- BASIS OF COMPENSATION

DISTRICT shall compensate ARCHITECT as follows:

1. For ARCHITECT's Basic Services, as described in Article II, and any other services included in Article IX as part of ARCHITECT's services, compensation shall be paid as follows:

Project Programming		\$ _____ (__%)
Schematic and Design Development		\$ _____ (__%)
Specialty Consultants		\$ _____ (__%)
Construction Documents, DSA Approval & Bidding		\$ _____ (__%)
DSA Approval and Bidding		\$ _____ (__%)
Construction Administration		\$ _____ (__%)
Reimbursable Expenses		\$ _____
TOTAL:		\$ _____

2. For additional services provided by ARCHITECT beyond ARCHITECT's Basic Services, as described in Article III, excluding services of consultants, compensation shall be computed based on the attached hourly rate schedule or as mutually agreed upon in writing by ARCHITECT and DISTRICT at the time the additional services are performed.

[ARCHITECT TO ATTACH HOURLY SCHEDULE]

3. For additional services performed by Consultants retained by ARCHITECT that are beyond the original scope of the PROJECT, including additional structural, mechanical and electrical engineering services, if any, as approved in writing by DISTRICT, compensation shall be a multiple of 1.1 times the amounts billed to ARCHITECT for such services.

4. For reimbursable expenses, as described in Article VII, compensation shall be based on a multiple of 1.1 times the actual expenses incurred by ARCHITECT, ARCHITECT's employees and consultants in the interest of the PROJECT.

ARTICLE IX -- OTHER CONDITIONS OR SERVICES

1. ARCHITECT shall complete and provide a copy to DISTRICT and Contractor within ten (10) days of such meeting, conference, discussion, or decision of a complete written record of all meetings, conferences, discussions and decisions between or among DISTRICT, ARCHITECT and Contractor during all phases of the PROJECT and concerning any material condition in the requirements, scope, performance and/or sequence of the work.

2. ARCHITECT shall send Construction Manager copies of all notices and communications sent to or received by ARCHITECT relating to the PROJECT.

3. ARCHITECT shall, at no cost to DISTRICT, satisfactorily correct any and all errors, omissions, deficiencies, or conflicts in the Construction Documents prepared by ARCHITECT or ARCHITECT's consultants promptly upon discovery or notice. The obligations of ARCHITECT to correct defective or nonconforming work shall not in any way limit any other obligations of ARCHITECT.

ARTICLE X -- INDEMNITY AND INSURANCE

1. ARCHITECT agrees, to the fullest extent permitted by the law, to indemnify and hold harmless DISTRICT, its officers, directors and employees against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by ARCHITECT's negligent performance of professional services under this AGREEMENT or acts in connection with the PROJECT, or any actions of ARCHITECT's consultants or anyone for whom the ARCHITECT is legally liable.

2. ARCHITECT shall indemnify, defend, and hold harmless DISTRICT, its officers, directors and employees from and against all loss, cost, expense, royalties, claims for damages or liability, in law or in equity, including, without limitation, attorneys' fees, court costs, and other litigation expenses that may at any time arise or be set up for any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark, or any other proprietary right of any person or entity in consequence of the use on the PROJECT by DISTRICT of the design or Construction Documents (including any method, process, product, concept specified, or depicted) supplied by ARCHITECT in the performance of this AGREEMENT.

3. The coverage of such indemnification shall include, without limitation, reasonable attorneys' fees and court costs incurred by DISTRICT with regard thereto. Said indemnity is intended to apply during the period of this AGREEMENT of ARCHITECT'S performance and shall survive the expiration or termination of this AGREEMENT until such time as any action against DISTRICT on account of any matter covered by such waiver or indemnity is barred by the applicable Statute of Limitations.

4. The obligation to defend shall arise regardless of any claim or assertion that DISTRICT caused or contributed to the losses. ARCHITECT's reasonable defense costs (including attorney and expert fees) incurred in providing a defense for DISTRICT shall be reimbursed by DISTRICT except to the extent such defense costs arise, under principles of comparative fault, from ARCHITECT's (a) negligent acts or omissions; (b) breach of any of the provisions of this AGREEMENT; or (c) willful misconduct.

5. Review, approval or acceptance of ARCHITECT's work whether by DISTRICT or others and whether during Schematic Design Phase, Design Development Phase, Construction Documents Phase, Bidding Phase, Construction Phase, Guarantee to Repair Period, or otherwise, shall not relieve ARCHITECT from responsibility for errors and omissions in ARCHITECT's work.

6. Nothing in this AGREEMENT, including the provisions of this Article, shall constitute a waiver or limitation of any rights which DISTRICT may have under applicable law, including without limitation, the right to implied indemnity.

7. ARCHITECT shall, at its sole cost and expense, purchase and maintain during the term of this AGREEMENT, with insurance companies duly licensed and admitted by the State of California with a rating by Best's Insurance Rating Service of not less than AVII, policies of insurance which will protect ARCHITECT and DISTRICT from claims which may arise out of or result from ARCHITECT's performance of this AGREEMENT or PROJECT, whether by ARCHITECT or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

- a. Commercial General Liability Insurance (Occurrence Form) with limits of not less than One Million Dollars (\$1,000,000.00) for each occurrence; Two Million (\$2,000,000.00) aggregate and Two Million (\$2,000,000.00) products/completed operations aggregate; and Two Hundred Fifty Thousand Dollars (\$250,000.00) as to property damage including, but not limited to, personal injury liability, broad form property damage liability, blanket contractual liability and completed operations coverage, covering the activities of ARCHITECT under this AGREEMENT. This policy shall be endorsed to name DISTRICT and DISTRICT'S Board of Trustees, officers, agents and employees as additional insureds. Such endorsement shall be made on ISO Endorsement CG20 10 11 85 "Additional Insured – Owner, Lessees or Contractors" or its equivalent.
- b. Workers' Compensation insurance with an insurance company duly licensed and admitted by the State of California. in the amounts required by California law covering all personnel employed on the premises during the term of this AGREEMENT whether said personnel are employed or contracted by ARCHITECT. Employers Liability with a minimum limit of Two Million (\$2,000,000.00) per accident covering all personnel employed on the premises during the term of this AGREEMENT with a minimum combined single limit of liability for bodily injury and property damage of not less than One Million (\$1,000,000.00) per occurrence.
- c. Business Auto Liability Insurance covering the ownership, maintenance or use of all owned, non-owned, and hired vehicles used in connection with the performance of this AGREEMENT with an insurance company duly licensed and admitted by the State of California. Said insurance shall have limits of not less than \$1,000,000 combined single limit, bodily injury and property damage liability per occurrence with no annual aggregate limits.
- d. Professional Liability insurance, including Contractual Liability, with limits of One Million (\$1,000,000.00) per occurrence, Two Million (\$2,000,000.00) aggregate. Such insurance shall be maintained during the

term of this AGREEMENT and renewed for a period of at least five (5) years thereafter. In the event ARCHITECT subcontracts or assigns any portion of its duties, it shall require any such subcontractor to purchase and maintain insurance coverage as provided in this subparagraph.

- e. Each policy of insurance required in (a), (c), and (e) above shall name DISTRICT and its trustees, officers, agents, and employees as additional insureds; shall state that, with respect to the operations of ARCHITECT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributing with such primary insurance, shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation, and shall waive all rights of subrogation against DISTRICT and its trustees, officers, agents, and employees. Commercial General Liability and Business Automobile Liability policies shall contain a cross liability or severability of interests clause.
- f. ARCHITECT is responsible for payment of any and all premiums, deductibles or self-insured retentions, and adjustment for losses on policies pursuant to this AGREEMENT.
- g. ARCHITECT shall notify DISTRICT in the event of material change in, cancellation or, or failure to renew each policy. Prior to commencing work, ARCHITECT shall deliver to DISTRICT certificates of insurance and additional insured endorsements as evidence of compliance with the requirements herein to be attached hereto as EXHIBIT "C," or this AGREEMENT will automatically be canceled. Not less than Five (5) days prior to the expiration date of each insurance policy, ARCHITECT shall deliver to DISTRICT a new certificate and endorsement.

8. DISTRICT's exercise of any of its rights or remedies prescribed in this AGREEMENT shall not relieve ARCHITECT from responsibility for damages or other losses incurred or to be incurred by DISTRICT as a result of ARCHITECT's breach of its obligations under this AGREEMENT.

ARTICLE XI -- ALTERNATIVE DISPUTE RESOLUTION

Disputes arising from this AGREEMENT or related in any manner to the same shall be resolved as follows:

1. In the event of any dispute, claim, question, or disagreement arising out of or relating to this AGREEMENT, prior to initiating arbitration or any other legal action and as a condition precedent to being entitled to file such legal action or demand for arbitration, the parties hereto shall use their best good faith efforts to settle such disputes, claims, questions, or disagreements, consulting and negotiating with each other in good faith and recognizing their mutual interests in attempting to reach a just and equitable solution satisfactory to both parties.

2. In the event the parties are unable to resolve their dispute through the meet and confer procedure provided for in paragraph 1, any dispute arising under or relating to this AGREEMENT, whether based on contract, tort, statute, or other legal or equitable theory, will be submitted to arbitration in the County of Orange, State of California before a retired

California Superior Court Judge or retired California Appellate Court or Supreme Court Justice or before a retired Federal Court Judge or Justice. If the parties are unable to agree as to an arbitrator, the arbitration shall be submitted before the Judicial Arbitration and Mediation Services, Inc. (“JAMS”) or Judicate West or the American Arbitration Association (“AAA”). The parties may agree on an arbitrator from the selected entity’s panel. If they are unable to agree, the selected entity will provide a list of three available arbitrators and each party may strike one. The arbitration tribunal shall select the arbitrator from the remaining names. The parties waive their rights to a jury trial. The arbitration shall be held in accordance with the rules of the selected entity and California substantive law shall apply. The arbitrator shall award costs and attorneys’ fees to the prevailing party. The parties shall be entitled to only the following limited discovery:

- a. Each party shall exchange all documents relevant to the subject matter of the dispute.
- b. Each party shall be entitled to one deposition limited to four hours.
- c. Each party may serve one set of interrogatories limited to 15 interrogatories, including subparts.
- d. Each party may make application to the arbitrator to order the deposition of a witness to be taken for use as evidence and not for discovery if the witness cannot be compelled to attend the hearing or as such exceptional circumstances exist as to make it desirable in the interest of justice and with due regard to the importance of presenting the testimony of witnesses at the hearing to allow the deposition to be taken.
- e. Each party shall advance one-half of the cost of the arbitration proceedings, including any administrative costs and arbitrator expenses subject to being reimbursed by an award of the arbitrator of costs.

3. If any claim arises under the construction contract documents for the PROJECT which is submitted to arbitration, and either the Contractor or DISTRICT claims that the acts or omissions of ARCHITECT are involved in whole or in part in any claim by or against DISTRICT, such may be asserted at the option of DISTRICT against ARCHITECT in the same arbitration proceeding involving DISTRICT and Contractor which shall be conducted under the procedure specified in the General Conditions of the construction contract.

4. Concurrent disputes under this AGREEMENT shall be consolidated into a single arbitration unless the parties otherwise agree in writing and no hearing shall be held prior to final completion of the PROJECT unless DISTRICT and ARCHITECT otherwise agree in writing.

5. Any arbitration award shall be subject to confirmation, vacation or correction under the procedures and on the grounds specified in the California Code of Civil Procedure, including, without limitation, Section 1296.

ARTICLE XII -- MISCELLANEOUS PROVISIONS

1. This AGREEMENT shall be interpreted and governed by the laws of the State of California. If any action is brought arising out of this AGREEMENT, including but not limited

to any claims for breach, interpretation, cancellation or specific performance of the same or any tort claims relating thereto, said action shall be brought in the appropriate tribunal in Orange County, California.

2. An inducement to DISTRICT for entering into this AGREEMENT is the professional reputation and competence of ARCHITECT and its employees. Neither this AGREEMENT, nor any interest therein may be assigned by ARCHITECT without the prior written consent of DISTRICT, which consent may be withheld by District in its sole and absolute discretion. Any attempt by ARCHITECT to assign this AGREEMENT shall be void and a material breach of this AGREEMENT and DISTRICT may immediately terminate this AGREEMENT.

3. ARCHITECT warrants to DISTRICT that it is not now, nor has it or any of its officers been for five years preceding involved in arbitration or litigation concerning ARCHITECT's professional performance or the furnishing of materials or services relating thereto.

4. DISTRICT and ARCHITECT, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this AGREEMENT and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this AGREEMENT.

5. This AGREEMENT represents the entire and integrated agreement between DISTRICT and ARCHITECT and supersedes all prior negotiations, representations or agreements, either written or oral. This AGREEMENT may be amended only by written instrument signed by both DISTRICT and ARCHITECT and approved by DISTRICT's Board of Trustees.

6. Nothing contained in this AGREEMENT shall create a contractual relationship with or a cause of action in favor of a third party against either DISTRICT or ARCHITECT.

7. Time is of the essence for this AGREEMENT. ARCHITECT acknowledges that all time limits stated in this AGREEMENT and in the PROJECT SCHEDULE are of the utmost importance to DISTRICT. ARCHITECT shall comply with the PROJECT SCHEDULE, which may be revised from time to time by mutual agreement, for completion of ARCHITECT's services. The total time schedule for full completion of Architect's services for each phase of the PROJECT shall not exceed the durations listed, unless mutually agreed upon in writing by ARCHITECT and DISTRICT. The durations for DISTRICT review period listed in the PROJECT SCHEDULE shall be computed from the date on which a clear, complete submittal is received by DISTRICT. DISTRICT's failure to meet its commitment to provide written requested information or to review within the stipulated time frames shall be cause for an adjustment in the PROJECT SCHEDULE. However, submittals received for review which are rejected, in writing, as not meeting the deliverables required by submittal requirements of this AGREEMENT and the attachments thereto, shall not be cause for adjustment of the PROJECT SCHEDULE, and any such delay caused by such rejected submittals shall be the sole responsibility of ARCHITECT.

8. Notwithstanding anything to the contrary, to the extent allowed by law, DISTRICT shall not be liable for any special, indirect, exemplary, punitive, consequential, or incidental damages, including, without limitation, lost revenues, anticipated revenues or profits relating to the same arising from any claim relating directly or indirectly to this AGREEMENT whether a claim for such damages is based on warranty, contract or tort (including, without

limitation, negligence or strict liability) even if the parties are advised of the likelihood or possibility of the same.

9. ARCHITECT's sole and exclusive remedy in the event ARCHITECT makes any claim for breach of this AGREEMENT or seeks damages under any theory of law whether based on warranty, contract or tort, including without limitation, negligence or strict liability, shall be against DISTRICT and not its trustees, officers, or employees. No trustee, officer or employee shall be sued or named as a party in any such suit or action and no judgment shall be taken against any trustee, officer, or employee. No writ of execution will be levied against the assets of any trustee, officer or employee of DISTRICT pursuant to the terms of this AGREEMENT. This covenant and agreement contained in this section are enforceable by DISTRICT's trustees, officers and employees.

10. ARCHITECT, in the performance of this AGREEMENT, shall be and act as an independent contractor. ARCHITECT understands and agrees that ARCHITECT and all of ARCHITECT's 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. ARCHITECT assumes the full responsibility for the acts and/or omissions of ARCHITECT's employees or agents as they relate to the services to be provided under this AGREEMENT. ARCHITECT shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes for the respective ARCHITECT's employees.

11. The parties to the AGREEMENT shall be excused from performance thereunder during the time and to the extent that they are prevented from obtaining, delivering or performing by acts of God, fire, strike, lock-out, terrorism, commandeering of materials, products, plants or facilities by the government. Satisfactory evidence shall be presented to the DISTRICT or Contractor to establish that the non-performance is not due to the fault or neglect of the party not performing.

12. This AGREEMENT shall be binding on and inure to the benefit of the successors and assigns of the parties hereto.

ARTICLE XIII -- NOTICES

Any notice or communication required or permitted to be given hereunder or by law shall be in writing and served personally, delivered by courier, or sent by United States certified mail, postage prepaid with return receipt requested, addressed to the other party as follows:

TO DISTRICT:

Coast Community College District
Attn: Vice Chancellor Administrative Services
1370 Adams Avenue
Costa Mesa, CA 92626

Coast Community College District
Attn: Physical Facilities Coordinator
1370 Adams Avenue
Costa Mesa, CA 92626

TO ARCHITECT:

Attn: _____
[ADDRESS] _____

TO CONSTRUCTION MANAGER:

Attn: _____
[ADDRESS] _____

Any such notices personally served or delivered by courier shall be effective when received. All notices sent by certified mail shall be effective forty-eight (48) hours after being deposited in the U.S. mail.

Each party shall make a reasonable, good faith effort to ensure that it will accept or receive notices that are given in accordance with this paragraph. A party may change its address for purposes of this paragraph by giving the other party written notice of a new address in the manner set forth above.

IN WITNESS WHEREOF, DISTRICT and ARCHITECT have executed this AGREEMENT as of the date first written above.

DISTRICT

ARCHITECT

C.M. Brahmhatt
Vice Chancellor of Admin. Services

[Name] _____
[Title] _____

Dated: _____

Dated: _____