



ADDENDUM #1
RFQ-202-21 DISTRICT MASTER ARCHITECT

As per the directions in the RFQ package, the following question was submitted for clarification in accordance with section XI: Questions/Contact Person of the RFQ:

QUESTION (1): Under “B. General Experience” #4 asks to provide an experienced project manager. Can this individual be included in our response to #2 Resumes? If yes, can we combine the total page counts from #2 and #4?

RESPONSE: No, you should not combine page counts for #2 and #4. The experienced project manager resume should be separate and limited to 1 page. All other proposed in house architectural staff would be included in section #2 and be limited to a total of 3 pages.

QUESTION (2): Are the attachments A – D to be included in the RFQ response or only to be completed by the selected firms?

RESPONSE: All respondents shall include attachments A-D in their RFQ response.

QUESTION (3): For responding to section C is the form enclosed required to be used and supplemental information after it?

RESPONSE: The form provided is not required to be used in the response, it is optional.

QUESTION (4): Section B – 3 – is the list of consultants only to be a list of names? With a one page limit it doesn’t seem like there is much room for resumes or qualifications.

RESPONSE: The list of consultants is intended to be a list of names. However, if there is room and a respondent wishes to include a brief description about a consultant or an individual without going over the page limit, that would be acceptable.

QUESTION (5): For some of the services (like the education master plan) is it acceptable to use a consulting team member’s experience?

RESPONSE: Yes it is acceptable to list a consultant's experience IF you clarify and specifically state that the experience is the consultants and not the architectural firm's.

QUESTION (6): Is the mailed Thumb drive required to be at the Palomar District Offices by the deadline or only post marked by then?

RESPONSE: Postmarked by May 17, 2021.

QUESTION (7): From the electronic delivery requirements, please verify that the 3 ring binder with tabbed dividers from RFQ response section is not required.

RESPONSE: Correct – a 3 ring binder or any hard copy material is not required. Everything is to be submitted electronically with a mailed thumb drive version also submitted.

QUESTION (8): In the pricing section it notes fees and costs need to be in a separate sealed envelope. Please confirm that this is not required as fees will be determined at a later time based on the project scope and fees will be submitted electronically per items A-D

RESPONSE: As the RFQ responses are all electronic, it is not necessary to submit the pricing information requested in the "Pricing Section (A-D)" in a separate envelope. They are to be submitted electronically as part of the RFQ response.

QUESTION (9): Section I: RFQ Format (Page 6 of 15): It indicates in the RFP Response section that all submitted materials must be bound in either a three-ring binder or spiral bound notebook. Is it required to provide a hard copy or copies, or are submittals to be submitted only as directed in the Copies of RFQ Response section?

RESPONSE: See response to question #7 above.

QUESTION (10): Item L. on page 8 of 15 requests a list of Program Manager references for District Managers that are not a District employee. Is it acceptable to list Program Manager references that are not employees of a client we are working with that is in the private sector and not a school district project?

RESPONSE: Yes, it is acceptable to list a Program Manager that is not an employee of a private sector client.

QUESTION (11): We have the following modification requests for the Attachment C Hold Harmless Agreement: A) 1st paragraph – add *(but not defend)* after the word indemnify. B) 2nd paragraph – Modify to read, *"Liability for damages for (1) death or bodily injury to persons, (2) injury to, loss or theft of property, or (3) any other loss, damage or expense arising under*

*either (1) or (2) above, sustained by the Firm or any person, firm or corporation employed by the Firm upon or in connection with the work called for in this Agreement, except for liability resulting from the sole negligence or willful misconduct or active negligence of the District, its officers, employees, agents or independent consultants who are directly employed by the District; and”. C) 3rd paragraph – Change first sentence to read: “Any injury to or death of persons or damage to property **to the extent determined to have been** caused by any act., including the District, **to the extent** arising out of.” D) Either delete the 4th paragraph in its entirety or add the following language to be consistent with current California State law, “The foregoing provisions of this Section are intended to be, and shall be, interpreted in a manner that is consistent with Civil Code Section 2782.8 as it exists as of the Effective Date.”*

***RESPONSE:** Delete Attachment “C” Hold Harmless Agreement.*

QUESTION (12): In Section I “RFQ Format,” there’s a blurb about the RFP Response on page 6 that says, “*All submitted materials must be bound in either a three-ring binder or spiral bound notebook. Tabbed dividers should be used to identify and separate discrete sections of the RFQ response which correspond to the information requested in this RFQ.*” Throughout the rest of the document, it just says an electronic submission. **I would like to confirm that the above language is not applicable to this RFQ, and if it is, how many printed hard copies would we need to submit?**

***RESPONSE:** See response to question #7 above.*

QUESTION (13): In some places in the RFQ, it says that we just need to email a copy of our submittal to you and copy another individual. Later, it says to do that *and* mail a usb thumb drive with a copy of the PDF on it to you. **Do we actually need to mail a thumb drive, or is the email copy sufficient?**

***RESPONSE:** Please submit a mailed thumb drive in addition to the electronic version.*

QUESTION (14): If we do need to mail a thumb drive, can it be hand delivered to the address provided on May 17th? If we do need to mail a thumb drive, can it be hand delivered to the address provided on May 17th?

***RESPONSE:** Due to Covid-19, we are working remotely and will not be on campus. Please submit a mailed thumb drive, postmarked by May 17th.*

QUESTION (15): If we need to mail a thumb drive and cannot hand deliver it, does the thumb drive need to arrive by 2 pm on May 17th or can it be postmarked on the 17th as long as our email submission is received by 2 pm that day?

***RESPONSE:** See response to question #6 above.*

QUESTION (16): Is the District currently working with an Educational Planner? If yes, who?

RESPONSE: No, the District is not currently working with an Educational Planner.

QUESTION (17): Are the selected firms precluded from pursuing any future projects, outside of the projects listed in this RFQ, during the duration of the contract?

RESPONSE: Selected firms will not be precluded from future projects outside of those listed in the RFQ.

QUESTION (18): Are the selected firms precluded from pursuing future projects, as listed in I - Introduction, during the duration of the contract?

RESPONSE: Selected firms will not be precluded from future projects outside of those listed in the RFQ.

QUESTION (19): Is there a sample agreement the District can share with us? Or will terms be negotiated once Master Architects have been selected.

RESPONSE: See attached Sample Agreement.

QUESTION (20): On page 6, it states that "RFP Response: All materials submitted in response to the RFQ shall be on 8-1/2"x11" paper, preferably in portrait orientation. All submitted materials must be bound in either a three-ring binder or spiral bound notebook. Tabbed dividers should be used to identify and separate discrete sections of the RFQ response which correspond to the information requested in this RFQ." But, the following paragraph requests electronic versions via email and thumb drive. Does the college want both an electronic submission and hardcopy?

RESPONSE: See response to question #7 above.

QUESTION (21): Does Palomar College have any preferred consultants?

RESPONSE: No, the District does not have a list of preferred consultants.

QUESTION (22): Our Commercial General Liability policy carries limits of \$1 million per occurrence/\$2 million aggregate. However, we have an Excess Liability policy with limits of \$14 million that would respond and cover the District required aggregate limit of \$3 million. Please confirm that the required aggregate limit can be satisfied through a combination of our Commercial General Liability policy and Excess Liability policies.

RESPONSE: Yes, the aggregate limit can be satisfied by your Excess Liability policies.

QUESTION (23): Attachment C Hold Harmless Agreement contains language that is inconsistent with the stipulated requirement set forth in Civil Code Section 2782.8. Specifically, the existing contractual language that purports to indemnify and hold the District harmless in connection with the work called for in this Agreement is unenforceable, except to the extent that the claims arise out of, pertain to, or relate to the negligence, recklessness or willful misconduct of the Design Professional. We would ask that the District include language that aligns the agreement with the requirements set forth in the Civil Code.

RESPONSE: See response to question #11 above.

QUESTION (24): The RFQ mentions submitted materials must be bound, however the cover of the RFQ says to submit electronically. Are we to submit hard copies, and if so, can you please specify how many copies?

RESPONSE: See response to question #7 above.

QUESTION (25): From our understanding, we are to mail hard copies, one thumb drive with an electronic copy in PDF format, and pricing section in a separate sealed envelope, as well as email one original electronic copy. Can you please confirm that this is correct?

RESPONSE: See response to question #7 above.

QUESTION (26): Under “B. General Experience” item #2, do the resumes count towards the 3 page limit?

RESPONSE: Yes, the resumes for the individuals from the Architectural firm count towards the 3 page limit. The Architectural project manager’s resume counts against the 1 page limit for item #4 under “B. General Experience”

QUESTION (27): The RFQ states to “mail (1) complete electronic copy on a thumb drive.” Please advise if the District requires receipt or postmarked by May 17, 2021.

RESPONSE: See response to question #6 above.

QUESTION (28): Will the architect, selected from this RFQ, complete the projects listed in I. Introduction?

RESPONSE: It is expected that the majority of the projects listed will be executed by the District Architect except for the LL Building remodel which will be a separate design RFP for which the District Architect may compete and potentially the SSC Building remodel for which the District may also elect to issue a separate design RFP if funding is available (again, the District

Architect would be able to compete for the SSC remodel if the District issues a design RFP).

QUESTION (29): Item C – Expertise, please advise if there is an associated time, i.e., 5 years, 10 years, etc.

RESPONSE: There is not a set minimum amount of experience that the District is requiring.

QUESTION (30): In pricing selection, Section A requests hourly rate sheets. In Section B, it mentions proposed fees. As there are no project budgets stated in the RFQ, it is requesting a flat rate project rate fee. This will vary from project to project and would be determined on a case by case basis based on scale and complexity. Please confirm fee proposals in addition to the hourly rate sheets are not required. If so, what would they be based on in terms of project or budgets?

RESPONSE: It is understood that a specific project flat rate fee cannot be provided without knowing more about the specific project. Please provide a statement of willingness (or not) to undertake projects for a flat rate fee and provide a typical fee range that you would expect with a caveat that any project would need to be evaluated on a case-by-case basis for a final flat rate fee to be determined.

QUESTION (31): RFQ Section 1 requires an electronic submittal via email of the proposal. This will be a PDF submittal. It is also required to mail a copy of the RFQ PDF on a flash drive to the District. As this will be an identical electronic file, is the mailing of the physical flash drive necessary?

RESPONSE: Yes

QUESTION (32): Does the Electronic thumb drive need to arrive by Mon. May 17 @ 2:00pm?

RESPONSE: See response to question #6 above.

QUESTION (33): Since this is a digital submittal, would the district prefer the “Pricing Section” in a separate RFP document? Or should this document be mailed in a sealed envelope with the USB thumb drive?

RESPONSE: See response to question #8 above.

QUESTION (34): On page 6, it states that “RFP Response: All materials submitted in response to the RFQ shall be on 8-1/2”x11” paper, preferably in portrait orientation. All submitted materials must be bound in either a three-ring binder or spiral bound notebook. Tabbed dividers should be used to identify and separate discrete sections of the RFQ response which correspond to the information requested in this RFQ.” But, the

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following paragraph requests electronic versions via email and thumb drive. Does the college want both an electronic submission and hardcopy?

RESPONSE: See response to question #7 above

The information above is added to RFQ #201-21

Date issued: May 11, 2021



*Ambur Borth, Assistant Superintendent, Vice President
Finance and Administrative Services
Palomar Community College District*

**AGREEMENT
BETWEEN
PALOMAR COMMUNITY COLLEGE DISTRICT
and**

**for
DISTRICT MASTER ARCHITECT SERVICES**

This agreement (Agreement) is made and entered into this ____ day of _____, 20____ by and between the Palomar Community College District (hereinafter referred to as "DISTRICT") and _____ (hereinafter referred to as "ARCHITECT").

RECITALS

1.0 PURPOSE

In April, 2021, the DISTRICT issued a Request for Qualifications (RFQ #202-21) seeking responses from California licensed and qualified Architects that will furnish Education and Facilities master planning, district design guidelines, design, design drawings, cost estimating, construction drawings and supplemental staffing as requested for construction oversight to the District for a number of projects including new construction, remodels, ADA projects, development of swing space and other miscellaneous projects on a year-to-year basis, for a total period of up to five (5) calendar years.

The ARCHITECT shall perform as DISTRICT MASTER ARCHITECT for any projects, regardless of size, requested by the DISTRICT during the year to year term of this Agreement for a total period of up to five (5) calendar years, effective _____. ARCHITECT has agreed that DISTRICT shall receive the appropriate attention and effort of ARCHITECT as may be required by the DISTRICT and its current and future services on projects subject to this agreement.

AGREEMENT

Based upon the foregoing recitals the terms of which are incorporated into this Agreement, DISTRICT and ARCHITECT agree as follows:

2.0 RESPONSIBILITIES OF ARCHITECT

ARCHITECT shall perform all required professional design and related services, and coordinate the services by others, as required to be the DISTRICT MASTER ARCHITECT, including but not limited to being the architect of record on any or all projects to include, but not limited to, master planning, district design guidelines, design, design drawings, cost estimating*, and construction drawings to the District for a number of projects including new construction, remodels, ADA projects, development of swing space and other miscellaneous projects. In performing these services, ARCHITECT shall use that degree of professional skill and expertise which is expected of competent and skilled architectural firms practicing in this field, and servicing on projects similar to those set forth. DISTRICT shall hold ARCHITECT to a standard of care for these services within the aforesaid degree of competence and skill and if ARCHITECT fails to perform up to these standards, DISTRICT may terminate this agreement and hire another firm to replace ARCHITECT on any or all of the projects.

- 2.1** In the event DISTRICT exercises its rights under paragraph 2.0, above, and DISTRICT furnishes plans and/or specifications prepared by ARCHITECT to a replacement architect or firm of architects, DISTRICT shall not seek to hold ARCHITECT liable for any failures of design and/or inadequacies of the plans and/or specifications arising out of the work of the replacement firm.
- 2.2** GENERAL PROFESSIONAL SERVICES: ARCHITECT shall provide, on an hourly basis, ongoing professional services to the DISTRICT for strategic planning, project planning, facility evaluation, staff & faculty meetings, and other services on a continuing and undefined basis as requested by the DISTRICT. These services shall be provided under a single contract number that will be billed on a monthly basis to the DISTRICT (hereinafter referred to as a "Project Contract").
- 2.3** PROJECT PREDESIGN, DESIGN, and AND CONSTRUCTION ADMINISTRATION: Architect shall provide Predesign, Design, and Construction Administration services for renovation, new facilities, and master planning projects including any or all projects. These services shall be provided on an hourly, lump sum, not to exceed, or percentage of construction professional fee basis as agreed to by the DISTRICT and ARCHITECT for each project. Each project will be assigned a separate contract number and billed separately.
- 2.4** When required, consultants may be used by the ARCHITECT to provide related and specialized professional services. By way of example, only, these related consultant services might include, Acoustical Engineering, Laboratory Planning, Specifications, Code Analysis, Cost Estimating, in addition to other services. Prior to start of work on any project ARCHITECT will submit to Owner the proposed Scope of Work, proposed Consultant team if applicable, and proposed fee basis.
- 2.5** Architect's proposal in response to District RFQ 202-21 is incorporated into this agreement as Exhibit B, including proposed staff to be assigned to DISTRICT, capabilities and processes to be used to complete various tasks assigned by the DISTRICT.

3.0 PAYMENT FOR SERVICES

DISTRICT shall compensate ARCHITECT in accordance with the fees and costs as agreed upon for each assigned project, which will be pre-approved and made part hereof this agreement. ARCHITECT shall submit invoices to the following DISTRICT office for approval prior to payment:

Facilities
Attn: Dennis Astl
Palomar Community College District
1140 West Mission Rd.
San Marcos, CA 92069-1487
Telephone: (760) 744-1150, extension 2772

DISTRICT will remit payment for ARCHITECT's invoices within 30 days of receipt. If DISTRICT disputes any portion of an invoice, DISTRICT shall inform ARCHITECT in writing

of the reason for the dispute within said time frame. ARCHITECT shall provide written explanation for any disputed amounts and resubmit the invoice to the DISTRICT for payment within ten (10) days of receipt from DISTRICT of the written demand. DISTRICT will remit payment for all undisputed invoice amounts in accordance with said time frame.

4.0 TERMINATION

In addition to the provisions of Paragraph **2.0**, above, a Project Contract may be terminated by DISTRICT upon 30 days written notice in the event of failure of ARCHITECT to perform in accordance with the terms hereof. In addition, DISTRICT shall have the right to terminate a Project Contract if ARCHITECT negligently performs services for DISTRICT. In the event of termination of a Project Contract, DISTRICT shall: (a) provide ten (10) days advance written notice to ARCHITECT of its intention to terminate the Project Contract, and (b) shall allow ARCHITECT an additional twenty (20) days to correct any failures of performance thereunder, to the full satisfaction of the DISTRICT, including the provision of satisfactory evidence of correction to the DISTRICT within this stated period of time. If ARCHITECT fails and/or refuses to correct the failures as stated herein, to the full and complete satisfaction of the DISTRICT, the DISTRICT may terminate the Project Contract without any additional Notice to the ARCHITECT. In the event of termination of the services of ARCHITECT under this paragraph, DISTRICT shall pay ARCHITECT for all of the fees, and charges for services performed by ARCHITECT in accordance with the Project Contract, except as to any services which DISTRICT contends were negligently performed, or not performed at all, and as to those, DISTRICT may at its sole discretion withhold sufficient monies from the Project Contract to cover the disputed items of that particular Project Contract, subject to mediation as set out in Section 16 below or absent a resolution in mediation, a determination by a court of competent jurisdiction. Because of the fact that the services are to be provided under a single contract number that will be billed on a monthly basis to the DISTRICT, any withholding of monies, if agreeable by _____, would only be applicable to the particular contract and should not apply to any other contract or project which is not the subject of a dispute.

5.0 HOLD HARMLESS INDEMNIFICATION

5.1. To the fullest extent permitted by law, Architect agrees that to the extent that it is responsible, it will indemnify, defend and hold District and its officers and employees entirely harmless from all liability arising out of:

5.1.1 Any and all claims under worker's compensation acts and other employee benefit acts with respect to Architect's employees or Architect's contractor's employees arising out of Architect's work under this Agreement; and

5.1.2 Any claim, loss, injury to or death of persons or damage to property to the extent that it is caused by any act, neglect, default, or omission other than a professional act or omission of the Architect, including all damages due to loss or theft sustained by any person, firm or corporation including the District, arising out of, or in any way connected with the Project, including injury or damage either on or off District property; but not for any loss, injury, death or damage caused by the negligence or willful misconduct of

District or of other third parties not under the supervision or control of the Architect.

- 5.2 To the fullest extent permitted by law, Architect agrees to indemnify and hold District entirely harmless from all liability arising out of any claim, loss, injury to or death of persons or damage to property to the extent caused by the negligent professional act or omission in the performance of professional services pursuant to this AGREEMENT. The Architect's obligation to indemnify for claims based upon professional acts or omissions of the Architect does not include the obligation to defend actions or proceedings brought against the District but rather to reimburse the District for attorney's fees and costs incurred by the District in defending such actions or proceedings brought against the District to the extent caused by the Architect; but not for any loss, injury, death or damage caused by the negligence or willful misconduct of District or of other third parties not under the supervision or control of the Architect.
- 5.3 The Indemnifications provided in this Agreement shall not be construed to extend any third party indemnification rights of any kind to any person or entity which is not a signatory to this Agreement

6.0 INSURANCE

ARCHITECT agrees to procure and maintain in full force and effect professional liability insurance in the combined single limit of not less than \$1,000,000.00 per claim and an aggregate OF \$3,000,000.00 including contractual liability coverage and prior acts coverage with or preceding the start date of the services hereunder. ARCHITECT agrees to procure and maintain in full force and effect workers compensation and general liability insurance sufficient to insure ARCHITECT's employees during the performance of this Agreement. ARCHITECT shall designate DISTRICT, its directors, officers, agents and employees as additional insureds under the general liability policy which shall have limits of at least \$1,000,000.00 per occurrence with an aggregate of no less than \$3,000,000.00 per policy year. ARCHITECT shall provide a certificate of additional insured designating DISTRICT concurrent with delivery of the executed original hereof, or as soon thereafter as reasonably feasible.

7.0 OWNERSHIP OF DOCUMENTS

- 7.1 Documents, including all electronics files of plans, specifications, correspondence, memorandum, estimates, values, opinions, all project schedules and critical path documentation, and all close-out documents and documents of record, including any reports of inspection, change orders, responses to requests for information, final inspection reports and all certifications and/or sign offs as well as any other writings authored, drawn, drafted or otherwise generated by ARCHITECT and/or any of its consultants or sub-consultants, in connection with services provided by them, or any of them under this agreement, or in any way connected with this agreement, are the property of DISTRICT, whether or not the work for which they were developed is performed, for the purposes of additions, alignments ,repairs, maintenance, renovations, modernization, or other purposes, only as they relate to an Assigned Project. The DISTRICT has the right to give to the successful awarded Contractor

on project access to base electronic files to assist them with their shop drawing presentations only and the ARCHITECT does not verify and cannot verify the accuracy of the electronic files for the purposes of the Contractor's or the Construction Manager's preparation of As-Builts or of Record Drawings. If there is to be the dissemination of any Three Dimensional Building Information Models (3D BIM) used by the Architect in preparing its two dimensional construction documents, the District and the Contractor will be required to execute a separate acknowledgement of the limitations for any such use of the 3D BIMS. "However, DISTRICT agrees that it shall not, without prior written permission of ARCHITECT use any plans and/or specifications subject to this paragraph, on any project for which they were and/or are not intended, i.e. DISTRICT shall not without prior permission of ARCHITECT attempt to construct a building or project designed or detailed by ARCHITECT under this agreement on a site, or sites for which they were not specifically designed or intended.

- 7.2 However, under any circumstances, in the event of any reuse or modification of the Architect's drawings, specifications or other documents by any person, firm or legal entity, the names and seals of the Architect and the Architect's Consultants, if any, shall first be removed from the Architect's drawings, specifications or other documents. The District further agrees to indemnify, defend and hold the Architect harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including, but not limited to, reasonable attorneys' fees accruing to or resulting from any and all persons, firms or any other legal entity, on account of any damage or loss to property or persons, including, but no limited to, death arising out of such use, reuse or modifications of the Architect's drawings, specifications or other documents.

8.0 AUDIT AND INSPECTION OF RECORDS

At any time during the normal business hours, and as often as DISTRICT may deem necessary, ARCHITECT shall make available to DISTRICT for examination at ARCHITECT's place of business, all data, records, plans, specifications, drafts of any document or writing, reports and all other materials and documents respecting matters covered by this Agreement, and ARCHITECT shall permit the DISTRICT it authorized accountants, auditors, fiscal agents, and attorneys, to inspect, copy and perform reviews and audits of all invoices, billings, payment records, payroll records and evidence of payments for services, and other data and records covering, or in any way have a relationship to any activities, work, services, work product, and any other matters covered by this Agreement or related to the services of ARCHITECT, its employees, principals, associates, consultants and sub-consultants performed in connection with this agreement.

9.0 ADMINISTRATION OF AGREEMENT

This Agreement and any Project Contracts shall be administered on behalf of and any notice desired or required to be sent to any party hereunder shall be addressed to:

DISTRICT: Dennis Astl, Manager, Construction and Facilities Planning
Palomar Community College District
1140 West Mission Road
San Marcos, CA 92069-1487

Telephone: (760) 744-1150, ext. 2772

Copy to: Contracts@Palomar.edu

ARCHITECT:

Telephone _____
Email _____

10.0 STATUS OF ARCHITECT

It is agreed that DISTRICT is interested only in the results obtained from service hereunder and that ARCHITECT shall perform as an independent contractor with sole control of the manner and means of performing the services required under this Agreement. ARCHITECT shall complete this Agreement and the Project Contracts according to its own methods of services which shall be in the exclusive charge and control of ARCHITECT and which shall not be subject to control or supervision by the DISTRICT except as to the results of the services. ARCHITECT is, for all purposes arising out of the Agreement, an independent contractor, and neither ARCHITECT nor its employees shall be deemed an employee of the DISTRICT for any purpose. It is expressly understood and agreed that ARCHITECT and its employees shall in no event be entitled to any benefits to which DISTRICT employees are entitled, including, but not limited to, overtime, retirement benefits, insurance, vacation, workers compensation benefits, sick or injury leave or other benefits. ARCHITECT is an independent contractor and as such shall be responsible for all salaries, payments, and benefits for all of its officers, agents, and employees, in performing services pursuant to this Agreement.

11.0 ATTORNEYS FEE PROVISION

If suit is brought by either party to this Agreement or the Project Contracts, to enforce any of its terms, or for the breach, including non-performance hereof, the prevailing party shall be entitled to receive an award of litigation expenses including attorney's fees, court costs, expert witness fees and investigation expenses.

12.0 ASSIGNMENT PROVISION

Except as provided herein, no portion of this Agreement or any of the services to be performed hereunder shall be assigned by either party without the express written consent of the other, and without such consent all services hereunder are to be performed solely by ARCHITECT, its officers, agents and employees.

13.0 ALTERATIONS OR VARIANCE

No alterations to this Agreement including any Exhibit hereto, or variance from the provisions hereof shall be valid unless made in writing and executed by both of the parties hereto.

14.0 GOVERNING FORUM

This Agreement is made in accordance with the laws of the State of California and any action to enforce the provisions hereof, or to interpret them, shall be in the courts of the State of California, County of San Diego, North County Judicial District.

15.0 SEVERANCE CLAUSE

If any portion of this Agreement is found by a court of competent jurisdiction, to be contrary to the law of the State of California, that portion shall be deemed stricken here from and the remainder hereof shall survive and constitute a valid and binding Agreement between DISTRICT and ARCHITECT.

16.0 ALTERNATIVE DISPUTE RESOLUTION

The parties agree in good faith to attempt to resolve amicably without litigation, any dispute arising out of or relating to this Agreement or the individual Project Contract. In the event that any dispute cannot be resolved through direct discussions, the parties agree to endeavor to settle the dispute by mediation. Either party may make a written demand for mediation, which demand shall specify in detail the facts of the dispute. Within ten (10) days from the date of delivery of the demand, the matter shall be submitted to a mediator mutually selected by the parties. The Mediator shall hear the matter and provide an informal opinion and advice, which shall be non-binding on the parties but shall be intended to help resolve the dispute. The Mediator's fee shall be shared equally by the parties. If the dispute has not been resolved, the matter may then be submitted to the judicial system. If the ARCHITECT has not been previously terminated by the DISTRICT; then, pending resolution of this dispute, ARCHITECT agrees to continue the work diligently to completion and DISTRICT agrees to make progress payments as called for, except the DISTRICT may withhold only those funds which are in dispute. If the dispute is not resolved, ARCHITECT agrees that it will neither rescind the Agreement nor stop the progress of the work, as long as the DISTRICT continues to show a good faith effort to resolve the dispute by mediation or other means.

17.0 FIXED FUNDING & HOURLY CONTRACT WORK

ARCHITECT and the DISTRICT have bargained over the compensation that is available for payment of services rendered under this agreement. The results of this bargaining are set forth in Exhibit A hereto, entitled "COMPENSATION". ARCHITECT understands that the DISTRICT'S funding for many of the projects listed in Exhibit "A" are State funds administered under close supervision of the Office of Chancellor, California Community Colleges and that Office will have advised the DISTRICT that there will be no additional funds allocated to this PROJECT including, but not limited to, no additional funding for DISTRICT MASTER ARCHITECT services, or inspection and testing services. Subject to the limitations in Exhibit A, ARCHITECT agrees to use its best efforts to work closely with DISTRICT to deliver the requisite services as contemplated herein, within the available funds committed hereto.

Unless otherwise agreed, ARCHITECT & DISTRICT shall use their best efforts to budget in advance for all hourly services contemplated from ARCHITECT and any consultants that

DISTRICT approves for retention by ARCHITECT, and shall agree on a project by project basis how much money is allocated for the hourly services of ARCHITECT. ARCHITECT shall use their professional efforts to perform the required services for each such project within the funds allocated thereto.

The respective duties of the parties hereunder (except the DISTRICT'S obligation to pay ARCHITECT such sums as may become due from time to time for services rendered by it) shall be suspended while and so long as performance thereto is prevented by strikes, riots, fire, severe weather, governmental action, war acts, acts of God, acts of the DISTRICT, or any other cause similar to the foregoing which are beyond the reasonable control of the party from whom the affected performance was due.

18.0 CHANGES IN SCOPE ON HOURLY WORK

On any work performed hereunder on a straight hourly basis, the DISTRICT, through its authorized representative, without invalidating this AGREEMENT, may order changes within the general scope of the services required by this AGREEMENT by altering, adding to and/or deducting from the services to be performed. If any changes under this clause causes an increase or decrease in ARCHITECT cost of, or the time required for, the performance of any part of the services under this AGREEMENT, an equitable adjustment shall be made by mutual agreement and the AGREEMENT modified in writing accordingly. All such changes in the Services shall be in writing and shall be performed subject to the provisions of this AGREEMENT.

IN WITNESS WHEREOF, DISTRICT and ARCHITECT have executed this Agreement by their authorized representatives as the date hereinabove first written.

DATED: _____

PALOMAR COMMUNITY COLLEGE DISTRICT

BY; _____
Ambur Borth, Assistant Superintendent/Vice
President Finance & Administrative Services

DATED: _____

BY: _____

Print Name & Title

Governing Board Approved:

EXHIBIT "A"
Compensation – Pricing/Hourly Rates

SAMPLE

**EXHIBIT "B"
ARCHITECT'S PROPOSAL**

SAMPLE

RFQ 202-21 - Addendum #1

Final Audit Report

2021-05-12

Created:	2021-05-11
By:	Debbi Claypool (dclaypool@palomar.edu)
Status:	Signed
Transaction ID:	CBJCHBCAABAAv31n6RE4fZafnOgYr4WFrSFbdTI-nO1m

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