

PERALTA COMMUNITY COLLEGE DISTRICT
Board of Trustees Agenda Report
For the Trustee Meeting Date of June 10, 2008

ITEM # 8

ITEM TITLE: *(Please define the subject; e.g., change order – Berkeley City College)*

Request approval of Contract for Consulting Services Agreement for Anderson & Strickler to conduct (a) the student housing survey. The additional amount requested shall not exceed \$2,500. The prior independent contract amount of \$25,000 brings the total current contract amount to \$27,500.

Any new fees submitted in the future will need Board approval regardless of the amount. See attached contract -- Exhibit B & K. Additional charges will be applied to the contract provisions that include survey incentives, survey set-up charge and possible postage and mailing expenses. It is anticipated this will cover expenses for the entire fiscal year 2007-08. The Chancellor recommends approval.

SPECIFIC BOARD ACTION REQUESTED:

Consider an additional amount of \$2,500 for reimbursable expenses which brings the contract amount over \$25,000 thus this decision is being brought to the board at this time.

ITEM SUMMARY: *(PLEASE DISCUSS THIS ITEM)*

BACKGROUND/ANALYSIS:

ALTERNATIVES/OPTIONS:

EVALUATION AND RECOMMENDED ACTION:

SOURCE OF FUNDS (AND FISCAL/BUDGETARY IMPACT):

OTHER DEPARTMENTS IMPACTED BY THIS ACTION (E.G. INFORMATION TECHNOLOGY):

YES _____ **NO** _____

COMMENTS:

WHO WILL BE PRESENTING THIS ITEM AT THE BOARD MEETING?

DID A BOARD STANDING COMMITTEE APPROVE THE ITEM? **YES** _____ **NO** _____

IF "YES", PLEASE INCLUDE THAT INFORMATION IN YOUR SUMMARY.



PLEASE ACQUIRE SIGNATURES IN THIS ORDER:

DOCUMENT PREPARED BY:

Prepared by: Nancy Koo Date: 5/27/08
Nancy Koo, Executive Assistant, Chancellor's Office

DOCUMENT PRESENTED BY:

Prepared by: _____ Date: _____
[Enter Name of College President or Vice-Chancellor or Manager,
and Title of Individual]

FINANCE DEPARTMENT REVIEW

Finance review required Finance review *not* required

If Finance review is required, determination is: Approved Not Approved

If not approved, please give reason: _____

Signature: Thomas Smith Date: 6.3.08
Thomas Smith, Vice Chancellor for Finance and Administration

GENERAL COUNSEL (Legality and Format/adherence to Education Codes):

^{TIN}
 Legal review required ^{if} *Measure of funds are used* Legal review *not* required

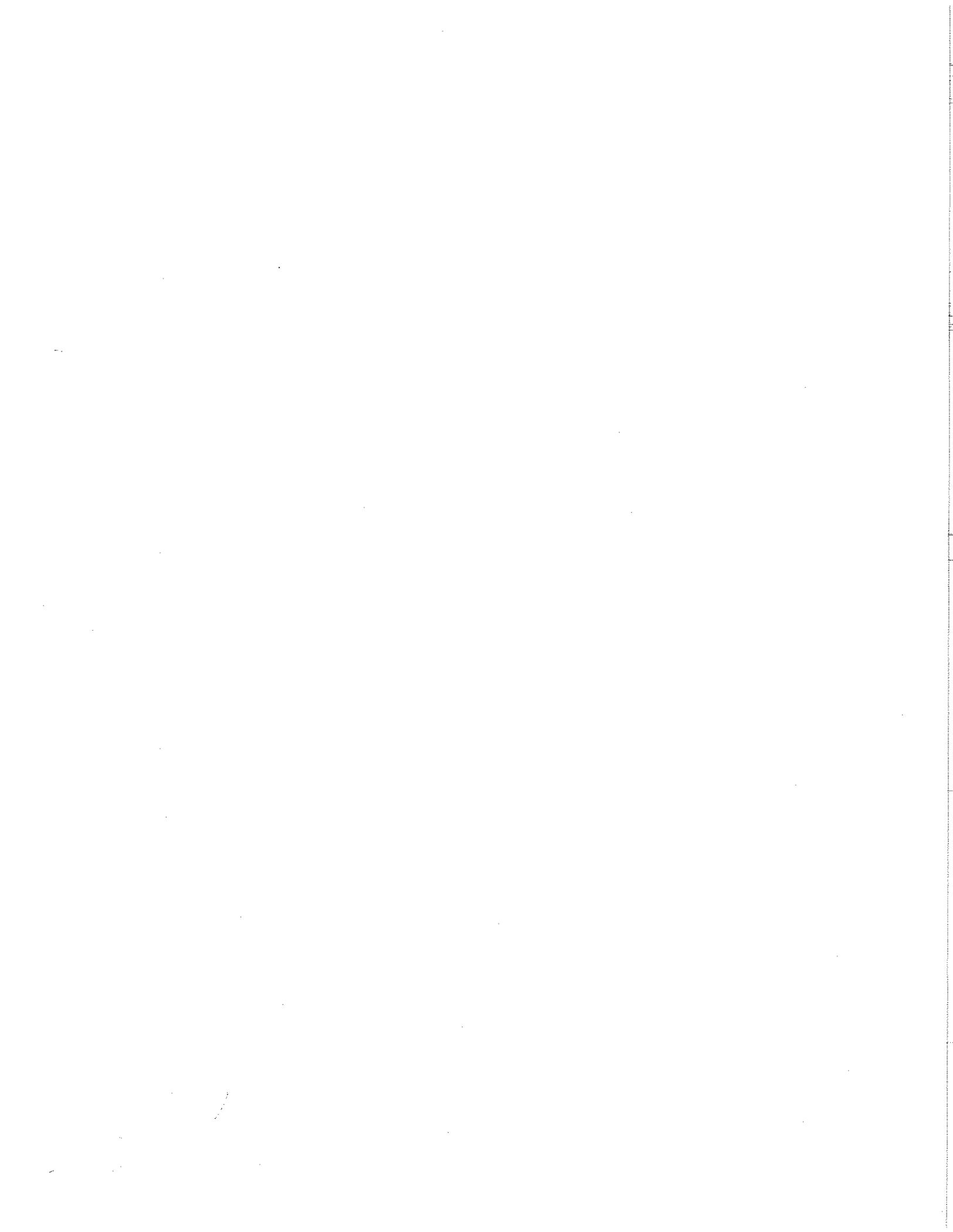
If Legal review is required, determination is: Approved Not Approved

Signature: Thuy T. Nguyen Date: 6/3/08
Thuy T. Nguyen, General Counsel

CHANCELLOR'S OFFICE APPROVAL

Approved, and Place on Agenda Not Approved, but Place on Agenda

Signature: Elihu Harris Date: 6/4/08
Elihu Harris, Chancellor



3202.10

Contract for Consulting Services

ARTICLE 1 PREFACE

1.1 EFFECTIVE DATE and PARTIES. This is an agreement ("AGREEMENT") dated as of September 1, 2007 ("EFFECTIVE DATE"), between Peralta Community College District ("DISTRICT") located at 333 E. 8th Street, Oakland, CA 94606 and Anderson Strickler, LLC, including its officers, employees, consultants, subcontractors, and agents ("VENDOR"), a limited liability company, with its principal office at 18310 Montgomery Village Ave, Suite 520, Gaithersburg, MD 20879-4030 (collectively, "PARTIES").

1.2 Documents Incorporated. The AGREEMENT comprises the general provisions set out in these articles as well as all exhibits:

- (a) Exhibit A: Scope of Services / Deliverables.
- (b) Exhibit B: Pricing and Payment Schedule.
- (c) Exhibit C: Firm Profile.
- (d) Exhibit E: Firm Proposal
- (e) Exhibit H: Authorized Agents.
- (f) Exhibit I: Notice Contacts.
- (g) Exhibit J: Independent Contractor / Consultant Services Contract.
- (h) Exhibit K: Travel Reimbursement Procedures

1.3 Recitals.

Whereas, the DISTRICT seeks to explore the market and financial feasibility of building student housing at the College of Alameda

Whereas the DISTRICT is a collaborative community of colleges, providing educational leadership to empower its students to achieve their highest aspirations and to become community leaders, creating opportunities and transforming lives

Whereas VENDOR provides real estate consulting and project development services to educational institutions

Whereas DISTRICT requests that VENDOR perform professional services in ascertaining the market and financial feasibility of student housing on behalf DISTRICT

Whereas VENDOR wishes to enter into a contract with DISTRICT in which VENDOR will furnish one item, a final report, to be delivered as set forth in this contract.

NOW, THEREFORE, in consideration of the mutual agreement set forth in the AGREEMENT, the parties agree as follows:

ARTICLE 2 WORK

2.1 WORK. VENDOR shall furnish those goods ("GOODS") and services ("SERVICES") as specified in Exhibit A—Scope of Services / Deliverables (collectively, "WORK").

2.2 Standard of Performance. VENDOR represents that it is qualified to perform the WORK and that it possesses and will continue to possess, at its sole cost and expense, all licenses, registrations, permits, and personnel necessary to provide the work. VENDOR also represents that it has extensive knowledge of, and will comply with, all applicable building codes, laws, regulations, and ordinances.

2.3 Ownership of Work Product. The WORK (and all related materials, rights, title and interest) provided under this AGREEMENT, regardless of the medium, including but not limited to, any designs, computations, studies, software, graphics, memorandum, plans, customer lists, business, financial, or marketing plans, (collectively, the "Work Product") shall, as applicable, be deemed "works made for hire," or "specially commissioned works," as those terms are defined in the U.S. Copyright Act (17 U.S.C. 101), and shall, in all cases, be owned exclusively by the DISTRICT. To the extent that the foregoing sentence is insufficient to convey exclusive ownership in the Work Product, VENDOR, including any subcontractors, hereby assigns to the DISTRICT as its sole and exclusive property all VENDOR and subcontractor's right, title and interest in any part, or all of the Work Product and all proprietary rights related thereto, whether or not patentable or protectable under copyright, trademark or other similar statutes. VENDOR agrees to take such actions as are necessary to protect the DISTRICT's rights in the Work Product (such as affixing proper copyright, patent or trademark notice where applicable) and to refrain from taking any action that would impair said rights. Upon the conclusion of this AGREEMENT, VENDOR (and any of its subcontractors) shall return all copies or versions of the Work Product that VENDOR or any subcontractor may at that time possess. VENDOR (and its subcontractors) shall not have any rights to use or disclose the Work Product, except with the prior written consent of the DISTRICT.

2.3.1 Software Provided by VENDOR. Software provided by VENDOR, or its Sub-Consultants, used to develop reports and other materials is specifically excluded and will be provided under the terms of licensure included with the software. Documentation of source code is proprietary and will not be provided to DISTRICT.

ARTICLE 3 PAYMENT

3.1 Schedule of Payments. DISTRICT shall pay VENDOR according to the schedule of payments attached as Exhibit B—Pricing and Payment Schedule. VENDOR shall invoice DISTRICT for payments as set forth in the schedule of payments. Late payment by DISTRICT shall not constitute a material breach of the AGREEMENT.

3.2 Payment Not Acceptance. No payment made to VENDOR shall be construed as an acceptance or approval of any of the WORK or constitute a waiver of any claim or right that DISTRICT may then or thereafter have against VENDOR. Payments shall be subject to correction or adjustment in subsequent reviews and payments.

3.3 Payments Withheld. DISTRICT may withhold payment on or offset against an invoice or a portion thereof in an amount and to such extent as may be reasonably necessary to protect DISTRICT from loss because of:

- (a) VENDOR'S failure to supply the WORK in accordance with the AGREEMENT;
- (b) third-party claims, suits, or liens arising out of or relating to VENDOR'S supply of the WORK, except to the extent secured or provided for by insurance, bond, or otherwise to DISTRICT'S reasonable satisfaction; or
- (c) VENDOR'S failure to make payment to DISTRICT when due.

3.4 No Obligation to Make Payment. Notwithstanding any provision to the contrary, DISTRICT shall have no obligation to make any payment to VENDOR at any time, after NOTICE to VENDOR when:

- (a) VENDOR is in material breach of the AGREEMENT; or
- (b) VENDOR fails to furnish and maintain evidence of current insurance in accordance with the requirements of the AGREEMENT.

3.5 Taxes. VENDOR agrees to file local, county, state, and federal tax returns and pay all applicable local, county, state and federal taxes on amounts paid pursuant to the AGREEMENT. In case DISTRICT is audited for compliance regarding any applicable taxes, VENDOR agrees to furnish DISTRICT with proof of payment of taxes on those earnings. VENDOR acknowledges that DISTRICT will report all earnings to the California State Franchise Tax Board and the Internal Revenue Service as required by law.

ARTICLE 4 DELAYS

4.1 Excusable Delays (Force Majeure). VENDOR is entitled to a reasonable extension of the delivery date for the WORK in the event of an action or omission that: 1) was not contemplated at the time this AGREEMENT was executed; 2) was not reasonably foreseeable; 3) directly impairs or inhibits the VENDOR's ability to provide the WORK on the schedule delivery date; and 4) was not the result of an act or omission by VENDOR (the "EXCUSABLE DELAY EVENTS"). EXCUSABLE DELAY EVENTS may include, for example, acts due to the gross negligence or intentional misconduct of the DISTRICT (and unrelated to any action taken by the VENDOR), natural disasters, labor strikes, or government action. In the event of an EXCUSABLE DELAY EVENT, VENDOR shall provide DISTRICT with NOTICE of said delay and the impact of said delay on the timetable set forth in Exhibit A. Said NOTICE shall be provided no more than two (2) calendar days after VENDOR becomes aware of such event. VENDOR shall then be entitled to a day for day extension corresponding to the number of days of delay demonstrated by VENDOR to be directly caused by the

EXCUSABLE DELAY EVENT, to the extent that that number of days (and not fewer days) is necessary to delivery the WORK.

4.2 Non-Excusable Delays. If a delay does not meet the definition of an Excusable Delay Event (a "NON-EXCUSALBE DELAY"), then VENDOR shall not, without the DISTRICT's prior written consent (which may be withheld), be entitled to an extension of the delivery date for the WORK then due. If the VENDOR does not obtain the DISTRICT's consent to a NON-EXCUSABLE DELAY, then it shall be responsible for any additional costs it incurs in its efforts to meet the delivery deadline. Notwithstanding that the DISTRICT may consent to an extension of the delivery date due to a NON-EXCUSABLE DELAY, the VENDOR will be required to pay any actual damages incurred by the DISTRICT as a result of such delay, by either offset against the amount due by the DISTRICT to the VENDOR or by submission by the DISTRICT of an invoice indicating the amount of the damages.

4.3 Compensation in the Event of Delay. Regardless of whether the VENDOR obtains the DISTRICT's consent to a NON-EXCUSED DELAY, and in the case of an EXCUSABLE DELAY EVENT that is not the related to an un contemplated and unforeseeable act or omission by the DISTRICT, the VENDOR shall be responsible for any additional costs it incurs in its efforts to meet the delivery deadline. In the event of any delay of the delivery of the WORK for any reason, the DISTRICT shall be entitled to suspend any payment obligations related to such WORK until such time as the delivery of the WORK to, and acceptance by, the DISTRICT.

ARTICLE 5. OPPORTUNITY TO CURE

5.1 Due Performance. If events arise that cause the DISTRICT to reasonably question VENDOR'S performance or VENDOR's ability to continue performance, DISTRICT may demand in writing sufficient assurance of due performance. Until assurance is received that is satisfactory to DISTRICT, DISTRICT may suspend payment and/or all WORK to be provided/performed hereunder.

5.2 Opportunity to Cure. In the event that a breach occurs, the VENDOR shall have 30 working days (the "CURE PERIOD") to repair, redesign, or otherwise remedy the breach, after its receipt of NOTICE from the DISTRICT of said breach or VENDOR's discovery of the breach, whichever date is first. The DISTRICT in its sole discretion may agree to a longer cure period or determine, in its reasonable judgment, that redesign, repair, or replacement must be accomplished in fewer days than the CURE PERIOD allows, including, but not limited to, cases where delay could result in serious loss or damage to persons or property. The VENDOR shall be solely responsible for the costs it incurs in its efforts to cure any breach.

ARTICLE 6 INSURANCE

6.1 Insurance Requirement. VENDOR shall provide and maintain insurance with coverages and limits of liability not less than those specified in Exhibit G—Required

Insurance Coverage from Vendor. Insurance shall be maintained throughout the term of the AGREEMENT (including the WARRANTY PERIOD). All such insurance shall be primary to any insurance maintained by DISTRICT and name the INDEMNIFIED, see Article 7—Indemnity, as additional parties insured. Limits may be arranged through any combination of underlying and excess or umbrella policies. VENDOR shall pay all deductible amounts associated with the required insurance. In the event any policy of insurance does not comply with these requirements or is canceled and not replaced, DISTRICT has the right but not the duty to obtain the insurance it deems necessary, and VENDOR will promptly reimburse any cost to DISTRICT.

6.2 Workers' Compensation. VENDOR certifies that it is aware of California Labor Code Section 3700, which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code. VENDOR further certifies that it does and will comply with such provisions before commencing performance of the AGREEMENT and for the duration of the AGREEMENT.

6.3 Certificates. Prior to commencing performance under the AGREEMENT, VENDOR shall furnish DISTRICT standard insurance certificates executed by an authorized representative of VENDOR'S insurer, evidencing the applicable policies, coverages, and limits. DISTRICT'S receipt of or failure to object to any insurance certificates or policies submitted by VENDOR does not release or diminish in any manner the liability or obligations of VENDOR or constitute a waiver of any of the insurance requirements under the AGREEMENT. Replacement certificates of insurance evidencing continuation of VENDOR'S coverage shall be furnished to DISTRICT prior to the expiration of the current policies.

6.4 Coverage for INDEMNIFIED PARTIES. Each VENDOR insurance policy shall be endorsed to provide a waiver of each insurer's rights of subrogation against the INDEMNIFIED PARTIES. Policies shall name the INDEMNIFIED PARTIES as additional insureds for liability arising with respect to the WORK and shall include a cross-liability and severability of interests clause. Each VENDOR policy shall provide for NOTICE by the insurer to DISTRICT prior to the cancellation, non-renewal, or material change of any insurance referred to herein.

ARTICLE 7 INDEMNITY

7.1 Indemnification of the DISTRICT. VENDOR shall indemnify, defend and hold harmless DISTRICT, its Board of Trustees, officers, agents, employees, volunteers and contractors (the "INDEMNIFIED PARTIES") from any and all third party actions, claims, losses, damages, demands or expense (including without limitation all court and/or arbitration costs and reasonable attorney's fees on account thereof) suffered or incurred by the INDEMNIFIED PARTIES arising from or relating to the WORK, VENDOR'S performance of services or provision of goods under this AGREEMENT, or any other act or omission of the VENDOR, including, but not limited to:

(a) claims by VENDOR's officers, agents or employees arising from or relating to their employment or contractual relationship with VENDOR, including any benefits to which they are entitled as a result thereof;

(b) claims of infringement or improper use of any patent, trade secret, proprietary right, copyright or any other intellectual property right relating to the WORK;

(c) claims arising out of a failure by VENDOR or its officers, agents, or employees to comply with the laws and policies set forth in Article 9—Confidentiality;

(d) acts or omissions of VENDOR's subcontractors; and

(e) claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the VENDOR.

This indemnification obligation shall survive the termination or expiration of this AGREEMENT.

7.2 Continuing Performance. If any 3rd party claim materially impairs performance of the WORK, then VENDOR, at its sole expense, shall timely procure the right from said 3rd party to continue its performance of its obligations under the AGREEMENT. Further, if an INDEMNIFIED PARTY should be enjoined from the use of any materials, combinations, or processes provided or to be provided under this AGREEMENT, then VENDOR, at VENDOR'S sole expense, but subject to all AGREEMENT requirements, shall promptly:

(a) secure termination of any injunction and procure for the affected INDEMNIFIED PARTY the right to use such material, combination, or process, without obligation or liability; or

(b) replace such materials, combinations, or processes, or modify the same to become non-infringing.

ARTICLE 8 COMPLIANCE WITH LAWS

8.1 Compliance with Laws. VENDOR shall fully comply with all laws, executive orders, regulations, DISTRICT Board Policies, and other legal requirements applicable to VENDOR and to the WORK. Failure to comply with this Article shall constitute a material breach of the AGREEMENT. (Board Policies can be found on the DISTRICT website: www.peralta.edu.)

8.2 Technology Accessibility. VENDOR hereby warrants that the WORK to be provided under the AGREEMENT complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194, and California Government Code Section 11135 incorporating Section 508. VENDOR agrees to promptly respond to and resolve any complaint regarding accessibility of the WORK which is brought to its attention.

8.3 Equal Opportunity in Contracting. DISTRICT is committed to ensuring equal opportunity and equitable treatment in awarding and managing its public contracts. Therefore, it is the policy of DISTRICT to encourage and facilitate full and equitable opportunities for small local business enterprises and small emerging local business enterprises to participate in prime contracting and subcontracting with DISTRICT. DISTRICT policy prohibits discrimination in DISTRICT programs and services, including contracting, subcontracting, personal and professional services, goods and maintenance, repairs, and operations. VENDOR shall fully comply with the DISTRICT'S equal opportunity and equitable treatment policies and implementing procedures and shall not discriminate against or grant preferential treatment to any subcontractor on the basis of race, color, religion, creed, national origin, sex, actual or perceived sexual orientation, transgender status at any stage, marital status, disability, medical status or conditions, age, ancestry, gender identity, political affiliation, veteran status, or other personal characteristic protected by law in the performance of the AGREEMENT.

8.4 Non-Discrimination. VENDOR agrees to comply with Titles VI and VII of the Civil Rights Act of 1964, Title IX of the Educational Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, Executive Order 11246 (30 FR 12319), DISTRICT Board Policy 4.03, and all applicable laws, rules, and regulations in regard to non-discrimination and equal opportunity. VENDOR agrees and assures that it will not discriminate against, permit discrimination against, harass, or permit harassment against any individual, including but not limited to employees, applicants for employment, or students, because of race, color, religion, creed, national origin, sex, actual or perceived sexual orientation, transgender status at any stage, marital status, disability, medical status or conditions, age, ancestry, gender identity, political affiliation, veteran status, or other personal characteristic protected by law. VENDOR will, in all solicitations or advertisements for employees, placed by or on behalf of VENDOR, state that all qualified applicants will receive consideration for employment without regard to the aforementioned protected personal characteristics. VENDOR certifies that it does not and will not maintain segregated facilities.

8.5 Posting. VENDOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the non-discrimination provisions of this Article. VENDOR will send each labor union or representative of workers with which VENDOR has a collective bargaining agreement or other contract or understanding a notice, to be provided by the contracting officer, advising of VENDOR'S commitments under Executive Order 11246.

8.6 Sexual Harassment. VENDOR assures that it will not sexually harass or permit sexual harassment against any individual, including but not limited to employees, applicants for employment, or students. DISTRICT shall have the right to remove an alleged offender from performance of the WORK pending the results of a sexual harassment investigation.

8.7 Drug-free Workplace. VENDOR certifies that VENDOR will comply with the requirements of California's Drug-Free Workplace Act of 1990 (California Government

Code Section 8350 et seq.) and will provide a drug-free workplace by taking the following actions:

- (a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in VENDOR'S workplace and specifying the actions that will be taken against employees for violations of the prohibition.
- (b) Establishing a drug-free awareness program to inform employees about all of the following:
 - (1) the dangers of drug abuse in the workplace;
 - (2) VENDOR'S policy of maintaining a drug-free workplace;
 - (3) any available drug counseling, rehabilitation, and employee assistance programs; and
 - (4) the penalties that may be imposed upon employees for drug abuse violations.
- (c) Requiring that each employee engaged in the performance of the AGREEMENT be given a copy of VENDOR'S drug-free policy statement and agree to abide by the terms of VENDOR'S statement as a condition of employment on the AGREEMENT.

8.8 N.L.R.B. Certification. VENDOR swears under penalty of perjury that no more than one final, unappealable finding of contempt of court by a federal court has been issued against VENDOR within the immediately preceding two-year period because of VENDOR'S failure to comply with an order of the National Labor Relations Board.

8.9 DISTRICT Conflicts of Interest. VENDOR represents that it is familiar with California Government Code Sections 1090 et seq. and 87100 et seq., and that it does not know of any facts that constitute a violation of said sections or DISTRICT'S conflict of interest code, Board Policy 6.86. VENDOR represents that it has completely disclosed to DISTRICT, and if applicable will disclose in the future, all facts bearing upon any possible interests, direct or indirect, which VENDOR believes any member of DISTRICT, or other officer, agent, or employee of DISTRICT or any department presently has, or will have, in the AGREEMENT, or in the performance thereof, or in any portion of the profits thereunder. If VENDOR subsequently becomes aware of any such facts, VENDOR shall promptly provide NOTICE to DISTRICT of same, along with a proposal for remedying the violation. DISTRICT, at its sole discretion, may determine whether the proposal or any other proposed resolution is satisfactory.

8.10 VENDOR Conflicts of Interest. VENDOR represents that it does not presently have, and shall not have during the AGREEMENT PERIOD, any direct or indirect interest that would conflict in any manner or degree with the performance of WORK required by the AGREEMENT. VENDOR further represents that it will not employ, subcontract to, or otherwise involve any person or entity having such conflicts of interest in the performance of the AGREEMENT. If VENDOR subsequently becomes aware of any such conflicts of interest, VENDOR shall promptly provide NOTICE to DISTRICT of same, along with a proposal for remedying the violation. DISTRICT, at its sole

discretion, may determine whether the proposal or any other proposed resolution is satisfactory.

8.11 Fraud or Misappropriation. VENDOR certifies that none of its officers has been convicted of fraud or misappropriation of funds.

8.12 Disclosure of Legal Matters. VENDOR represents that it has completely disclosed to DISTRICT prior to the execution of the AGREEMENT, and if applicable will disclose in the future, with respect to VENDOR, its officers, current employees, and the past and present enterprises of its officers:

- (a) citations, civil judgments, criminal convictions, settlements, penalties, fines, and the like imposed by government entities;
- (b) charges or investigations by government entities, including but not limited to S.E.C. and A.T.F. investigations and grand jury charges;
- (c) suspensions and debarments;
- (d) litigation in which VENDOR is a defendant;
- (e) administrative agreements; and
- (f) past contracts terminated for cause.

ARTICLE 9 CONFIDENTIALITY

9.1 Duty to Keep Information Confidential. The DISTRICT shall furnish to VENDOR such information, proprietary data, access to the DISTRICT's personnel, equipment, and materials as may be reasonably necessary and appropriate for VENDOR to provide the WORK, the confidentiality of which gives the DISTRICT a competitive advantage in its business (all such information and access so furnished being the "INFORMATION"). As used herein, the term "INFORMATION" is to be broadly defined and includes, but is not limited to, (a) presentations, ideas, trade secrets, processes, systems, techniques, formulas, source and object code, data, programs, know-how, flowcharts, methods, compounds, diagrams, drawings, models, specifications, improvements, discoveries, developments, designs, and other works of authorship, whether patented or registered for trademark or copyright protections, if any, (b) information regarding marketing, sales, licensing, accounting, product development, competitive analyses, unpublished financial statements, budgets, forecasts, prices, costs, business plans, research and development plans, students, student marketing, research and any other confidential student, supplier, or employee information, and (c) any other information of the type which the DISTRICT has a legal obligation to keep confidential or which the DISTRICT treats as confidential or proprietary, whether or not owned or developed by the DISTRICT.

(a) As a material condition to VENDOR providing the WORK, VENDOR acknowledges a continuing responsibility with respect to the INFORMATION and agrees:

- (i) that the INFORMATION is, shall be, and shall remain the exclusive property of the DISTRICT, and VENDOR shall neither have nor acquire any right, title, or interest therein;

(ii) to keep all INFORMATION confidential and not to copy, publish, transmit, or disclose to others or allow any other party to copy, publish, transmit, or disclose to others any INFORMATION, except in accordance with VENDOR's responsibilities to the DISTRICT pursuant to this AGREEMENT and in furtherance of the interests of the DISTRICT; and,

(iii) to use the INFORMATION exclusively for the purpose of providing the WORK under this AGREEMENT.

(b) During the time that this AGREEMENT remains in effect and at all times thereafter, VENDOR agrees to keep the INFORMATION confidential and not to copy, publish, transmit, or disclose to others or allow any other party to copy, publish, transmit, or disclose to others, any INFORMATION without the DISTRICT's prior written approval.

(c) Upon termination of this AGREEMENT, VENDOR shall return to the DISTRICT any and all INFORMATION, Third Party INFORMATION (as defined below), and any other materials, notes and copies relating to the DISTRICT and/or any assignments ("DISTRICT Materials") in VENDOR's possession or under VENDOR's control and shall not subsequently use the INFORMATION, Third Party INFORMATION or DISTRICT Materials in any manner, whether adverse to the DISTRICT or otherwise.

(d) The foregoing confidentiality obligations of VENDOR shall not apply to any INFORMATION that (a) is a matter of public knowledge (from a source or sources other than VENDOR), (b) is independently developed by a person not a party to this AGREEMENT without the use, directly or indirectly, of INFORMATION, or (c) is required by law or the order of any court or governmental agency, or in any litigation or similar proceeding to be disclosed, provided that VENDOR shall, prior to making any such required disclosure, notify the DISTRICT in sufficient time to permit the DISTRICT to seek an appropriate protective order.

9.2. Third Party INFORMATION. VENDOR understands that the DISTRICT has received and in the future will receive from third parties confidential or proprietary information ("Third Party INFORMATION") subject to a duty of the DISTRICT to hold such information in confidence and to use it only for the limited, authorized purpose of performing its obligations to its students or employees. Both during and after the term of this AGREEMENT, VENDOR will hold all Third Party INFORMATION in the strictest confidence and will not disclose or use it, except as required by the WORK for the DISTRICT or expressly authorized in writing by an authorized officer of the DISTRICT. VENDOR represents that performance of this AGREEMENT shall not, does not, and will not breach any other agreement to which VENDOR prior to the commencement of this AGREEMENT. VENDOR further represents that VENDOR has not entered into, and agrees not to enter into, any agreement, either oral or written, in conflict herewith.

9.3 Breach of Confidentiality. Both parties agree that in the event of a breach, threatened breach, violation, or evasion of the terms of this Article 9, immediate and irreparable injury shall occur to the injured party, that such injury shall be impossible to measure or remedy in monetary damages, and the DISTRICT shall be authorized to seek recourse to all equitable remedies, including injunctive relief or specific

performance, provided however that such remedies shall not be exclusive of other legal or equitable remedies otherwise available under this AGREEMENT and/or at law.

9.4. Return of INFORMATION. Upon termination of this AGREEMENT or upon request by the DISTRICT, VENDOR will promptly deliver to the DISTRICT all drawings, notes, memoranda, presentations, brochures, specifications, programs, reports, and other documents and manifestations, with all copies and any other materials containing or disclosing any INFORMATION, Third Party INFORMATION or any other materials related to the DISTRICT, whether prepared by VENDOR or another party. VENDOR agrees not to retain any written or other tangible material containing any material concerning or disclosing any Third Party INFORMATION or INFORMATION of the DISTRICT and to maintain the confidentiality of this INFORMATION and materials in the future.

9.4.1 Promotional and Professional Representations. Consultant will have the right to include representations of the design of the Project including photographs, among Consultant's promotional and professional materials. Consultant's materials will include only information that is clearly not proprietary, not misleading, and does not impart a negative image of or message about the DISTRICT.

9.5 Duration of Obligation. The obligations of the PARTIES pursuant to this article shall extend indefinitely beyond the AGREEMENT PERIOD.

ARTICLE 10 FINANCIAL STATUS, RECORDS, AND NOTICE

10.1 Financial Solvency. By signing the AGREEMENT, VENDOR affirms financial stability and continued solvency. At the request of DISTRICT, VENDOR will provide written evidence of its financial stability and solvency.

10.2 Financial Misrepresentation in Response to Request for Proposal. VENDOR certifies that VENDOR'S Proposal (Exhibit E) is complete and accurate. Any misrepresentation or failure to reveal material information in said response may be deemed sufficient cause for DISTRICT to refuse to enter to or revoke the AGREEMENT.

10.3 Accounting Records and Auditing. VENDOR shall keep accurate and complete accounting records concerning performance of the AGREEMENT in accordance with generally recognized accounting principles and practices consistently applied. DISTRICT shall have the right at any reasonable time to examine, audit, and reproduce the records. If such records are not kept and maintained within a radius of 75 miles from DISTRICT'S main offices, VENDOR shall, upon request of DISTRICT, and at no cost to DISTRICT, make such records available to DISTRICT for inspection at a location within said 75 mile radius. Such records shall be available for five (5) years after the latest of:

- (a) delivery of the WORK; or
- (b) termination of the AGREEMENT; or

- (c) resolution of any pending issues between DISTRICT and VENDOR with respect to the AGREEMENT.

VENDOR agrees to allow interviews of any of its employees who might reasonably have information related to such records and to otherwise assist DISTRICT in its auditing procedures at no cost to DISTRICT. The provisions of this section shall be specifically enforceable.

10.4 Return Documents. If VENDOR has accepted any forms or other writings on DISTRICT'S behalf, those forms and writings shall be returned to DISTRICT at the end of the AGREEMENT PERIOD or upon earlier termination of the AGREEMENT, at no cost to DISTRICT.

10.5 Evaluation. In accordance with procedures established by DISTRICT, VENDOR'S performance under the AGREEMENT will be evaluated. The evaluation shall include quality and adequacy of performance and whether performance is timely. Evaluation records shall be kept by DISTRICT and may be used in future selection of contractors.

10.6 NOTICE. PARTIES shall provide notice ("NOTICE") to each other in the form of a writing sent by certified mail with return receipt requested or by overnight courier or delivery service with signature required, to the notice contact specified in Exhibit I— Notice Contacts. NOTICE will be deemed given on the date of receipt by the designated recipient.

ARTICLE 11 MODIFICATION OF AGREEMENT

11.1 AUTHORIZED AGENTS. Each PARTY shall specify at least one agent with authority to modify the AGREEMENT ("AUTHORIZED AGENT") in Exhibit H— Authorized Agents.

11.2 Modifications. No modification, including but not limited to amendments, limitations, waivers, change orders, and supplements, shall bind either PARTY unless it is in writing and signed by the AUTHORIZED AGENTS of both PARTIES. The PARTIES expressly recognize that DISTRICT personnel who are not AUTHORIZED AGENTS cannot order or approve additions, deletions, or revisions in the WORK ("CHANGES"). Failure of VENDOR to secure proper authorization for CHANGES shall constitute a waiver of any and all right to adjustment in payment or delivery timetable due to such unauthorized CHANGES, and VENDOR thereafter shall be entitled to no compensation or reimbursements whatsoever for the performance of such CHANGES.

11.3 Provision of Reports. Notwithstanding any other provision in the AGREEMENT, VENDOR shall deliver any report requested by DISTRICT during the AGREEMENT PERIOD that VENDOR agrees, either orally or in writing, to provide. Failure by VENDOR to submit the report within the time frame agreed upon by both PARTIES will be considered a breach of the AGREEMENT. VENDOR shall provide DISTRICT with status reports, at no cost to DISTRICT, upon NOTICE of a request by DISTRICT.

11.4 Assignment. VENDOR may neither assign the AGREEMENT, in whole or in part, nor any money payable under the AGREEMENT without DISTRICT'S prior written consent. Any such assignment without DISTRICT'S prior written consent shall be null, void, and of no force and effect whatsoever. DISTRICT reserves the right to assign the AGREEMENT to an affiliate of or contractor of DISTRICT with the prior written consent of VENDOR which shall not be unreasonably withheld, provided that at any time after VENDOR has been paid in full for work then provided, DISTRICT may, without the consent of VENDOR, assign the AGREEMENT to an affiliate or a contractor of DISTRICT upon NOTICE to VENDOR.

ARTICLE 12 TERMINATION

12.1 Termination for Cause. DISTRICT may terminate performance under the AGREEMENT, in whole or in part, and apply Section 5.2, Opportunity to Cure, should VENDOR commit a material breach. If DISTRICT elects to terminate the AGREEMENT for cause, DISTRICT shall provide NOTICE to VENDOR of its breach and of the extent to which performance shall be terminated. VENDOR shall immediately, upon receipt of said NOTICE, cease performance per the terms of the NOTICE and mitigate damages.

12.2 Payment Obligations. If DISTRICT terminates for cause VENDOR'S right to perform, then DISTRICT shall determine the cost to complete as soon as practicable, and:

- (a) if the cost to complete exceeds the unpaid balance from the schedule of payments at the time of termination, VENDOR shall pay DISTRICT the amount of such difference within thirty (30) calendar days following receipt of DISTRICT'S NOTICE setting out a demand for such payment; or
- (b) if the cost to complete is less than the unpaid balance from the schedule of payments at the time of termination, DISTRICT shall pay VENDOR the amount of such difference within thirty (30) calendar days following determination of the cost to complete.

VENDOR shall not be entitled to receive any further payments under the AGREEMENT, except that, in the case of a partial termination of VENDOR'S right to perform, DISTRICT shall pay VENDOR, pursuant to the terms of Exhibit B—Pricing and Payment Schedule, for WORK which is not terminated.

12.3 Suspension of Performance. DISTRICT may suspend, delay, or interrupt performance, in whole or in part, for such periods of time as DISTRICT may determine in its sole discretion. VENDOR shall immediately upon receipt of NOTICE of such decision cease performance per the terms of the NOTICE and mitigate damages. Suspension, delay, or interruption of WORK shall be treated as an EXCUSABLE DELAY EVENT.

12.4 Termination for Convenience. DISTRICT may terminate performance of the AGREEMENT, in whole or in part, for convenience upon its determination that such termination is in DISTRICT'S best interests. VENDOR shall immediately upon receipt of

NOTICE of such decision cease performance per the terms of the NOTICE and mitigate damages. For portions of performance that are terminated, VENDOR shall be entitled to be paid for WORK satisfactorily performed to the termination date and for reasonable costs associated with the termination, but may recover no other cost, damage, or expense.

12.5 Termination for Illegality. DISTRICT may terminate performance of the AGREEMENT in whole or in part for illegality immediately upon its determination that an activity or operation supported by the AGREEMENT is no longer lawful for reasons including but not limited to court decision, legislative action, administrative decision, or advice of counsel. Upon receipt of NOTICE of termination or reduction based on a finding of illegality, VENDOR shall immediately cease performance of such activity and mitigate damages. VENDOR shall be entitled to be paid for WORK satisfactorily performed to the termination date and for reasonable costs associated with the termination, but may recover no other cost, loss, damage, or expense.

ARTICLE 13 DISPUTE RESOLUTION

13.1 Mediation. If a dispute arises under this AGREEMENT, the parties agree to first attempt in good faith to resolve the dispute with a mutually agreed-upon mediator in Alameda County, California. A party may initiate mediation by sending to the other party a written demand for mediation; the demand shall describe with specificity the nature of the dispute. Any costs and fees other than attorney fees associated with the mediation shall be shared equally by the parties. If the parties are unable to arrive at a mutually satisfactory solution through mediation, or if a mediator has not been chosen and a date set for mediation, within sixty (60) calendar days from the date of the demand for mediation, then the parties hereby agree to submit the dispute to a mutually agreed-upon arbitrator in Alameda County, California, pursuant to the terms of Section 13.2, below.

13.2 Arbitrations. Any action to enforce or interpret this AGREEMENT, or to resolve disputes with respect to this AGREEMENT (other than claims for preliminary injunctive relief or other pre-judgment or equitable remedies), shall be settled by binding arbitration in Alameda County, California, in accordance with the then current Commercial Arbitration Rules of the American Arbitration Association, if a mutually satisfactory resolution cannot be reached in mediation or if sufficient steps towards mediation have not been taken pursuant to Section 15.1, above. Arbitration shall be the exclusive dispute resolution process for all claims other than for preliminary injunctive relief or other pre-judgment or equitable remedies. Any party may commence arbitration by sending a written demand for arbitration to the other party and to the American Arbitration Association. Such demand shall set forth the nature of the matter to be resolved by arbitration.

A request for arbitration must be submitted within the same limitation period that would be applicable in court and must be in writing. If either party fails to submit and serve a written request for arbitration within the applicable statute of limitations, that party

agrees that it will have waived any right to raise said legal or equitable claim, in any forum, regarding the dispute. The arbitrator shall be one that is mutually agreeable to both parties. Both parties shall have the right to conduct normal civil discovery, including the taking of depositions, prior to the arbitration hearing, and specifically agree that the provisions of Section 1283.05 of the California Code of Civil Procedure are incorporated into and made applicable to any arbitration, *provided however* that the arbitrator will retain his or her statutory discretion under that section to limit the number, and scope of, the depositions.

The arbitrator shall be empowered to award either party any remedy at law or in equity that the prevailing party would otherwise have been entitled to had the matter been litigated in court, including, but not limited to, injunctive relief or specific performance; provided however that the authority to award any remedy is subject to whatever limitations, if any, that exist in the applicable law on such remedies. The arbitrator shall issue a decision or award in writing, stating the essential findings of fact and conclusions of law. The arbitrator shall have no jurisdiction to issue any award contrary to or inconsistent with the law. Following the evidentiary portion of an arbitration hearing, both parties shall have the right to prepare and file with the arbitrator a post-hearing brief not to exceed twenty-five (25) pages in length. Any such brief shall be served on the arbitrator and the other party within thirty (30) days of the close of the evidentiary portion of the hearing, unless the parties agree to some other time period. Should any part of this arbitration provision be declared by a court of competent jurisdiction to be invalid, unlawful or otherwise unenforceable, the remaining part shall not be affected thereby and the parties shall arbitrate their dispute without reference to or reliance upon the invalid, unlawful or unenforceable part of the AGREEMENT.

The parties shall share equally all initial costs of arbitration. However, the prevailing party may, per discretion of the arbitrator, be entitled to reimbursement of attorney fees, costs, and expenses incurred in connection with the arbitration and in association with the enforcement of said judgment. All decisions of the arbitrator shall be final, binding, and conclusive on all parties. Judgment may be entered upon any such decision in accordance with applicable law in any court having jurisdiction thereof. The arbitrator (if permitted under applicable law) or such court may issue a writ of execution to enforce the arbitrator's decision.

13.2.1 Choice of Law in Arbitration. The substantive law of the State of California shall be applied by the arbitrator to the resolution of the dispute.

13.3 Tort Claims Act. No provision of the AGREEMENT shall alter the requirements of the Tort Claims Act, California Government Code Section 810 et seq.

13.4 Forum Selection. The exclusive venue for all litigation arising from or relating to the AGREEMENT shall be in Alameda County, California.

13.5 Cumulative Remedies. The remedies provided in the AGREEMENT are cumulative. A PARTY who exercises a right or remedy will not be precluded from asserting any other right or from seeking any other remedies available to that party.

13.6 No Special Damages. Notwithstanding any other provision, in no event shall DISTRICT be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including but not limited to lost profits or revenue, arising out of or in connection with the AGREEMENT.

13.7 Reserve Right to Offset. DISTRICT reserves the right to offset the reasonable cost of all damages caused to DISTRICT against any outstanding invoices or amounts owed to VENDOR.

13.8 Statutes of Limitation. As between the PARTIES to the AGREEMENT, any applicable statute of limitations for any act or failure to act shall commence to run on the date of DISTRICT'S issuance of the final certificate for payment, or termination of the AGREEMENT, whichever is earlier, except for latent defects, for which the statute of limitation shall begin running upon discovery of the defect and its cause.

13.9 Course of Dispute. Unless the DISTRICT gives NOTICE to stop work or of its intent to terminate this AGREEMENT, nothing in the AGREEMENT shall allow VENDOR to discontinue the WORK during the course of any dispute, and VENDOR'S failure to continue the WORK during any and all disputes shall be considered a material breach of the AGREEMENT.

ARTICLE 16 INTERPRETATION

14.1 Integration. It is mutually understood and agreed that this AGREEMENT, the Exhibits, and any documents, provisions of law or District policies attached or referenced to herein are incorporated herein by this reference and together serve as the final, complete, and exclusive agreement of the PARTIES, setting out the entire intention of the PARTIES. Any and all prior agreements or representations are superseded hereby. No evidence of alleged prior dealings, usage of trade, or course of dealing or of performance not specifically and in terms set out herein shall be deemed in any sense relevant to supply any unexpressed term, to supplement or qualify this writing, or to engraft thereon any stipulation or obligation different from, or inconsistent with, law or with the express provisions hereof. No oral evidence of allegedly consistent additional terms be admissible without a specific preliminary finding by the court or arbitrator that this contract is ambiguous and in what respect. All oral contracts and representations have been reduced to writing and are included in the AGREEMENT.

14.2 Defined Terms. Each term that is defined in the AGREEMENT shall have the same meaning throughout the AGREEMENT.

14.3 Governing Law. The AGREEMENT shall be deemed to have been executed in the City of Oakland, Alameda County, California. Enforcement of the AGREEMENT,

including arbitration, shall be governed by, and construed and enforced in accordance with, the local, state, and federal laws in effect in the City of Oakland, Alameda County, California, including but not limited to California Government Code Section 818, but excluding California's conflict of laws principles that would cause the application of laws of any other jurisdiction.

14.4 Severability. Should any provision, or part thereof, of the AGREEMENT be determined at any time to be unenforceable or in contravention of law, then the remaining provisions, and the remainder of such provision, shall be enforceable to the fullest extent permitted by law and construed to give effect to the intent of the AGREEMENT to the fullest extent possible.

14.5 Titles of Provisions. The titles given to the articles, sections, and subsections of the AGREEMENT are for ease of reference only and shall not be used in the construction or interpretation of the AGREEMENT or relied upon or cited for any other purpose.

14.6 No Third-Party Beneficiaries. Except as expressly provided, nothing in the AGREEMENT shall operate to confer rights or benefits on persons or entities that are not a party to the AGREEMENT.

14.7 Time Is of the Essence. For all performance under the AGREEMENT, time is of the essence.

14.8 VENDOR Is Independent of DISTRICT. VENDOR and VENDOR'S officers, agents, and employees are (a) not to be considered agents or employees of DISTRICT, (b) not entitled to participate in any pension, insurance, bonus, or similar benefits, which DISTRICT provides to DISTRICT employees, and (c) shall not sign contracts on behalf of or otherwise bind the DISTRICT.

14.9 Sovereign Immunity Reserved. Nothing herein shall be construed to waive or limit DISTRICT'S sovereign immunity or any other immunity from suit provided by law.

14.10 No Waiver of Performance. The failure of DISTRICT to insist, in any one or more instance, upon the performance of any of the terms, covenants, or conditions of the AGREEMENT, or to exercise any right herein, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right as to further performance. No waiver, properly authorized and in writing, of any breach of any provision shall be construed as a waiver of any continuing or succeeding breach of such provision, a waiver or modification of the provision itself, or a waiver or modification of any right under the AGREEMENT, unless the waiver so states.

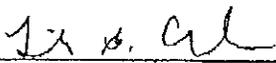
14.11 Independent Contractor Contract. When the terms of Exhibit J—Independent Contractor / Consultant Services Contract conflict with any other provision of the AGREEMENT, this AGREEMENT controls.

ARTICLE 15 EXECUTED

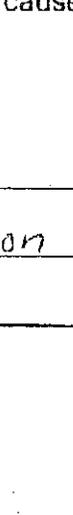
15.1 Authority. Signing of the AGREEMENT has been done in compliance with Board approval as outlined in the Board Policies for the Peralta Community College District. An AUTHORIZED AGENT for each PARTY shall sign.

15.2 Executed. The PARTIES have caused the AGREEMENT to be executed effective as of the EFFECTIVE DATE.

VENDOR ACCEPTS AND AGREES:

Signature: 
Print Name: Linda G. Anderson
Title: Principal
Date: 7/31/2007

DISTRICT ACCEPTS AND AGREES:

Signature: 
Print Name: Eliba M. Harris
Title: chancellor
Date: 8/21/07

APPROVED AS TO LEGAL FORM:

Signature: 
Print Name: Thuy Thi Nguyen
Title: General Counsel, Peralta Community College District
Date: 8/13/07

EXHIBIT A: SCOPE OF SERVICES / DELIVERABLES

A. Term of Project

1. Project will be completed within 90 days from date of AGREEMENT

B. Project Initiation

1. Request and review information relevant to the analysis, particularly information on any student housing plans to date
2. Meet with appropriate DISTRICT and College representatives to review scope of work, project goals and objectives, and institutional objectives
3. Tour existing quality-of-life facilities

C. Off-Campus Market Analysis

1. Identify off-campus rental properties and areas that are most popular with students; visit these properties (to the extent possible) and gather data regarding condition of facilities, unit types, unit sizes, and rental rates
2. Interview local real estate professionals knowledgeable in the local rental market and city planning office. Determine what new projects may be in the pipeline that would increase the current competition with off-campus housing
3. Review and analyze any existing reports or data on local area rental trends

D. Student Survey

1. Develop and distribute (via Web) surveys to all students at the four DISTRICT campuses who would be eligible to live in College housing. The survey will collect demographic information, information on students' current housing situation, attitudinal factors affecting housing selection, and information on proposed unit types at estimated rents
2. Request and review enrollment data and projections by student class standing and full-time and part-time status
3. Analyze survey results to estimate type and level of demand; create separate tabulations and demand calculations for each campus

E. Final Report

1. Based on information gathered, develop a draft report containing findings and recommendations; create separate category tabulations and demand calculations for each campus
2. After DISTRICT review, provide final report

EXHIBIT B: PRICING AND PAYMENT SCHEDULE

A. Fees and Services:

As full compensation for all WORK contemplated by the AGREEMENT, VENDOR shall be compensated monthly, based on percent complete, for fees and assessment services by payment(s) totaling \$ 25,000. The \$25,000 fee includes project initiation (\$2,500), off-campus market analysis (\$3,500), student survey and analysis (\$9,500), additional survey analysis (\$6,000) and a final written report (\$3,500).

B. Reimbursable Expenses:

Reimbursable expenses associated with completion of the WORK are to be compensated monthly in addition to Fees and Services. Reimbursable expenses include Vendor's actual and necessary out-of-pocket expenses incurred by Vendor in the interest of the project as identified in this exhibit. Reimbursable expenses must comply with the Travel Reimbursement Procedures described in Exhibit K

B. 1. Reimbursable Expenses Include:

Actual and necessary expenses, such as travel, reprographics, postage, delivery, bulk mail services, data entry, reports, survey web hosting fee, survey incentives and other expenses authorized by DISTRICT.

B. 1. a. Survey Incentive:

DISTRICT authorizes VENDOR to award cash and/or prize incentives, totaling no more than \$800, to students for their participation in the survey. Cash and/or prize incentives shall be awarded randomly to the student participants, pooled together as a whole and not by individual colleges. Whilst under the control of VENDOR, the incentives should consist of, at a minimum, one (1) \$100 cash award, several \$50 cash award. At the discretion of VENDOR, an IPOD Nano or Shuffle, or similar, non-cash prize may be awarded and promoted as an incentive.

EXHIBIT C: FIRM PROFILE

Please check all categories that apply to **VENDOR**:

- Small Local Business Enterprise* is an independently owned and operated for-profit concern that performs a commercially useful function. The business is located at a fixed, established commercial address located in DISTRICT'S market area (Alameda County), in the city of _____, that constitutes the business location at which work of an administrative, clerical, professional, or productive nature is performed relative to its contracts, and not a temporary or movable office, a post office box, or a telephone answering service. If the business has an office outside of DISTRICT'S market area as well as an office within the market area, the office within DISTRICT'S market area is staffed on a full time, permanent basis with someone in the employ of the business. If requested, businesses with an office outside of DISTRICT'S market area must provide proof of one or more past contracts (such as contracts to perform work, to rent space or equipment, or for other business services) citing the business address that evidences the applicant's address in DISTRICT'S market area at least one (1) year prior to the date of contract award. The one-year requirement does not apply to businesses whose sole establishment is located within DISTRICT'S market area. It is a small business whose gross annual revenue for the past three consecutive years has not exceeded 8.5 million dollars for a construction firm, three million dollars for an architecture, engineering, or professional services firm, or six million dollars for all other firms.
- Small Emerging Local Business Enterprise* is a small local business enterprise whose gross annual revenue for the past three consecutive years has not exceeded 1.5 million dollars.

The District is identifying vendor ownership as follows:

	Asian-American (Chinese, Japanese, Korean, Vietnamese)	Black or African- American	Filipino	Latino (other than Mexican or Mexican- American)	Mexican or Mexican- American	Native - American	Pacific Islander, other Asian	White	Disabled	Veteran	Women	Subcontractor	Employee	Apprentice
Total #														
% of assets														

The District is identifying vendor workforce as follows:

	Asian- American (Chinese, Japanese, Korean, Vietnamese)	Black or African- American	Filipino	Latino (other than Mexican or Mexican- American)	Mexican or Mexican- American	Native - American	Pacific Islander, other Asian	White	Disabled	Veteran	Women	Subcontractor	Employee	Apprentice
Total #														
% of assets														

Please attach any certification of firm profile.

EXHIBIT C: FIRM PROFILE

Please check all categories that apply to VENDOR:

- Small Local Business Enterprise* is an independently owned and operated for-profit concern that performs a commercially useful function. The business is located at a fixed, established commercial address located in DISTRICT'S market area (Alameda County), in the city of _____, that constitutes the business location at which work of an administrative, clerical, professional, or productive nature is performed relative to its contracts, and not a temporary or movable office, a post office box, or a telephone answering service. If the business has an office outside of DISTRICT'S market area as well as an office within the market area, the office within DISTRICT'S market area is staffed on a full time, permanent basis with someone in the employ of the business. If requested, businesses with an office outside of DISTRICT'S market area must provide proof of one or more past contracts (such as contracts to perform work, to rent space or equipment, or for other business services) citing the business address that evidences the applicant's address in DISTRICT'S market area at least one (1) year prior to the date of contract award. The one-year requirement does not apply to businesses whose sole establishment is located within DISTRICT'S market area. It is a small business whose gross annual revenue for the past three consecutive years has not exceeded 8.5 million dollars for a construction firm, three million dollars for an architecture, engineering, or professional services firm, or six million dollars for all other firms.
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Total #														
% of assets														

The District is identifying vendor workforce as follows:

	Asian- American (Chinese, Japanese, Korean, Vietnamese)	Black or African- American	Filipino	Latino (other than Mexican or Mexican- American)	Mexican or Mexican- American	Native -- American	Pacific Islander, other Asian	White	Disabled	Veteran	Women	Subcontractor	Employee	Apprentice
Total #														
% of assets														

Please attach any certification of firm profile.

EXHIBIT E: FIRM PROPOSAL

EXHIBIT G: REQUIRED INSURANCE COVERAGE FROM VENDOR

		Limits			
		Contracts of \$150 K or less	Contracts between \$150 K & \$1 MM	Contracts of \$1 MM or more	
a	Workers' Compensation ¹ (W.C.)	Statutory	Statutory	Statutory	
b	Employer's Liability ² (E.L.)	Each accident	\$1 MM	N/A	N/A
		Disease policy limit	N/A	N/A	N/A
		Disease each employee	N/A	N/A	N/A
c	Commercial General Liability ³ (C.G.L.)	General aggregate	N/A	N/A	N/A
		Personal / advertising injury	N/A	N/A	N/A
		Each occurrence	\$1 MM	N/A	N/A
		Fire damage (any one fire)	N/A	N/A	N/A
		Medical expense (any one person)	N/A	N/A	N/A
d	Products / Completed Operations Aggregate	N/A	N/A	N/A	
e	Business Automobile Liability ⁴ (A.L.)	Bodily injury (per person)	\$1 MM	N/A	N/A
		Bodily injury (per accident)	\$1 MM	N/A	N/A
		Property damage	\$1 MM	N/A	N/A
		Or combined single limit	\$1 MM	N/A	N/A
f	Professional Liability (Errors and Omissions)	\$1 MM	N/A	N/A	
g	Excess Umbrella Liability ⁵	N/A	N/A	N/A	

K = one thousand (1,000)

MM = one million (1,000,000)

¹ Coverage shall include U.S.L.&H., Jones Act, Outer Continental Shelf Land Act, if applicable. Coverage shall include all partners, proprietors, and executive officers. Coverage shall include California state coverage.

² Coverage shall include all partners, proprietors, and executive officers.

³ Policy shall be endorsed to provide that aggregate limits apply on a per project basis. Coverage shall include: broad form property damage, independent contractor's liability, and coverage for hazards commonly referred to as X.C.U. Coverage will apply to VENDOR'S indemnity obligations to the extent the obligation arises from an otherwise insured event.

⁴ Coverage shall include all owned, non-owned, and hired vehicles.

⁵ In excess of W.C., C.G.L., and A.L.

EXHIBIT H: AUTHORIZED AGENTS

DISTRICT'S AUTHORIZED AGENTS

Name Elihu Harris
Title Chancellor
Address 333 E. 8th Street
Oakland, CA 94606

Telephone (510) 466-7202
Facsimile (510) 268-0604

Name _____
Title _____
Address _____

Telephone _____
Facsimile _____
Other _____

VENDOR'S AUTHORIZED AGENTS

Name Linda Anderson
Title PRINCIPAL
Address 18310 Montgomery Village
Ave., Suite 520
Gaithersburg, MD
20879-4030

Telephone 301-208 6600
Facsimile 301-208 2606
Other _____

Name _____
Title _____
Address _____

Telephone _____
Facsimile _____
Other _____

EXHIBIT I: NOTICE CONTACTS

DISTRICT'S NOTICE CONTACT

Name
Title
Address 333 East 8th Street
 Oakland CA 94606

Telephone _____
Facsimile _____
Other _____

VENDOR'S NOTICE CONTACT

Name Linda Anderson
Title PRINCIPAL
Address 18310 Montgomery Village
 Ave., Suite 520
 Gaithersburg, MD
 20879-4030

Telephone 301-208-4600
Facsimile 301-208-3608
Other _____

**EXHIBIT J: INDEPENDENT CONTRACTOR / CONSULTANT SERVICES
CONTRACT**

EXHIBIT K: Travel Reimbursement Procedures**Peralta Community College District Board Policy 6.39****Conference/Professional Development and Travel****POLICY:**

It is the policy of the District to reimburse, to the extent possible within financial restraints and District guidelines, expenses incurred by employees and Trustees for travel, conferences, and meetings of professional and educational organizations and associations. It is the position of the District that the training gained by participation in such activities can contribute significantly to personal job performance and to the quality of the educational mission of the district. Per diem will be periodically reviewed by the administration and Trustees.

PROCEDURES:**A. Employees**

District employees performing District services, regardless of funding source, shall be reimbursed as provided by the Education Code and District procedures for authorized expenses incurred in the following categories:

1. Required Travel

A District employee who is required by an appropriate District or College administrator to attend meetings, or to transact any District business outside the District, shall be reimbursed for all necessary expenses in accordance with District administrative procedures.

2. Other Conference Travel

a. A District employee may be authorized, without loss of salary and with reimbursement for all or a portion of necessary expenses, to attend conferences, meetings, or workshops called by other than the Peralta Community College District. Such conference or meeting attendance and travel must be authorized by the appropriate administrator and the Chancellor when it has been determined that the District will benefit by such attendance.

b. Employees who hold elected or appointed positions in recognized educational and professional organizations or participate on review panels and advisory bodies of external organizations, agencies, and associations, may be authorized to attend regional, state or national conferences, without loss of salary and with reimbursement for all or a portion of necessary expenses. Such conference or meeting attendance and travel must be authorized by the appropriate administrator and the Chancellor when it has been determined that the District will benefit by such attendance.

3. Mileage for Travel

Use of an employee's car in connection with travel necessary in the normal course of the employee's duties, may be authorized in accordance with District administrative procedures. (Travel in which a round trip is equal to or less than two hundred miles shall be considered local travel).

4. Out-of-State Travel

All out-of-state travel by District employees must be approved by the Chancellor. Reimbursement will be authorized for all or a portion of expenses in accordance with District administrative procedures.

5. In-Service Training

- a. Regular employees may be authorized by the College President and the Chancellor, to attend, at District expense, training programs designed specifically upgrade their skills and knowledge of new technology and/or methodology that will benefit the District. (This in-service training shall not be used as a basis for salary advancement).
- b. Eligible programs shall include, but not be limited to, seminars, training institutes or specific training courses, conducted by recognized professional institutions, organizations, or associations.
- c. In accordance with District procedures, reimbursement will be made upon successful completion of the approved training.
- d. Reimbursement shall not be allowed for any employee who is receiving training and is eligible for reimbursement by any other government agency, organization, or association, in accordance with the Education Code.

6. Authorized Expenses

- a. Reimbursement for travel and participation in meetings and conferences shall conform with District rules and regulations covering organizational membership, required travel, and other conferences.
- b. Only actual and necessary traveling expenses will be allowed for transportation, lodging, meals, registration fees, and ordinary and customary gratuities, and other authorized expenses in accordance with District administrative procedures. This does not include alcoholic beverages, according to Board Policy 6.40.

B. Students

1. Students may be reimbursed from District funds to the extent authorized by the Education Code for expenses incurred in the following categories:

a. Participation in co-curricular activities or events as authorized and defined by the Education Code, provided that such activity or event:

- (1) is approved by the appropriate administrator.
- (2) is an extension of classroom instruction or related college program.

b. Participation in other events where student attendance is required may be authorized by the appropriate District administrator if it has been determined that the District and students will benefit by such attendance.

c. Participation by students as members of an athletic team in athletic events at a place other than the Peralta Community College District, as authorized by the Education Code.

d. Participation in activities or events supported in full or in part by external funding which are conducted within the framework of the purposes and guidelines established for the program, and are approved by the College President.

2. Authorized Expenses

a. Reimbursement for co-curricular activity expenses shall be limited to lodging, transportation, and conference fees, in accordance with District administrative procedures.

b. Reimbursement for athletic activity expenses will include lodging, meals, entry fees, and transportation, in accordance with District administrative procedures.

c. Reimbursement for expense of student representatives at selected conferences may be authorized by the College President and/or Chancellor in accordance with District administrative procedures.

d. Social events and awards intended to recognize the achievements of student athletes shall be funded, to the extent possible, from gate receipts, contributions, and-raising activities, and the individual payment by participants in such events. Other District funds may be used supplementally if approved by the College President and Chancellor.

c. Chancellor and Board of Trustees

1. The President of the Board of Trustees will encourage Board representation at regularly-scheduled conferences of associations in which the Peralta Community College District maintains membership.

2. The Board's travel will be subject to review and approval by the Chancellor or designee.

International travel is addressed in Board Policy 6.39-A.

D. Other than Trustees, Employees or Students

1. **Travel, conference attendance, or mileage for other than Trustees, employees or students** shall be authorized by the appropriate District or College administrator only when conducted within the purposes of externally-funded projects and in accordance with District administrative procedures.

2. When a candidate for the positions of Chancellor, Sr. Vice Chancellor or College President is requested by the District to travel to the District for an interview or examination prior to possible employment, the District may reimburse the candidate for expenses necessarily incurred in traveling from his/her residence to the interview or examination. Reimbursements for such expense must be authorized in advance on a case-by-case basis by the Chancellor.

E. Vehicle Insurance

No officer or employee shall engage in any travel in connection with the performance of official business for the District in a privately owned vehicle, either his/her own or that belonging to another, unless the same is insured in such a manner to comply with the provisions of general state law, in an amount sufficient to meet the California State Financial Responsibility Law, as found in the Motor Vehicle Code, Section 16056(a). These amounts are:

Limit	\$15,000	bodily injury one person
Limit	\$30,000	bodily injury two or more persons
Limit	\$5,000	property damage

(The Procedures section of this manual contains guidelines for implementation of this policy.) Peralta Community College District Board Policy 6.39

Source of Law:

Approved by Board of Trustees: April 23, 1991

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Revised (second reading): January 25, 2000

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