

EXHIBIT A



CONTRA COSTA COMMUNITY COLLEGE DISTRICT PROFESSIONAL SERVICES AGREEMENT

Contract No TBD

THIS Agreement is made and entered into this date **TBD, 2021**, by and between CONTRA COSTA COMMUNITY COLLEGE DISTRICT (“DISTRICT”), and **TBD (“CONSULTANT”** or “Architect-Engineer”) to provide consulting SERVICES for the project DVC Campus Wayfinding Project, Architectural Design Services.

1. SERVICES TO BE PROVIDED BY CONSULTANT:

- 1.1. Consultant is authorized by District pursuant to this Consultant Agreement effective as of the above date, to provide consultation and related professional SERVICES as follows:

SCOPE OF WORK

- 1.2. Basic scope of services to include design and development of working drawings to add DVC wayfinding signage on the Diablo Valley College Campus.

Include time for meetings with the District, DVC Staff and CM (Kitchell) for design document development. Design should include elevations, mounting details, attachment details, specifications, renderings, etc. and should meet all DSA requirements. Include time to field verify all signs on the DVC Sign Package for locations, mounting types, and existing signs. Include time for DSA design review and backcheck revisions and DSA closeout. DSA review is estimated to take 90 days. Include time for bidding phase administration including pre-bid walk (if necessary) and pre-bid RFI response. Include time for meetings with the District, DVC Staff, CM (Kitchell) and the Contractor (TBD) during construction as well as review time of submittals, field inspections, punchlist and other construction administration duties. Include an estimate of the full construction cost of the project (i.e. cost of sign fabrication and installation). Design Time period is estimated to be 90 days. **Complete documents by XXXXXX XX, 2021.**

General Description and Requirements.

- 1.2.1. The Architect-Engineer shall perform the requested services based on the terms and conditions stated in this Agreement. If the stated terms and conditions of this Agreement are ambiguous, then the Architect-Engineer shall perform the required services in accordance with applicable standards of professional care, to comply with the times for completion of services set forth in this agreement and any schedules for the Architect-Engineer’s services to be agreed upon by the parties. Time is of the essence in the performance of this Agreement. Time periods so established shall not be exceeded by the Architect-Engineer except for delays due to causes outside the Architect-Engineer’s control (which term shall not include staffing problems, insufficient financial resources, or default or negligent acts, errors or omissions on the part of the Architect-Engineer or its Subconsultants).
- 1.2.2. Architect-Engineer will record the discussions in meetings and provide a draft copy of the minutes to the District within three (3) working days. The District will review and provide review comments to the Architect-Engineer. The Architect-Engineer shall then incorporate the District’s comments, sign, publish, and distribute the final minutes of the meeting within two (2) working days. If review comments are not received back from the District within five (5) working days, the minutes will be considered final.
- 1.2.3. Services performed by Architect-Engineer shall conform to the requirements of the laws of the State of California applicable to school’s construction, including, but not limited to, the requirements of the California Business and Professions Code, the California Education Code, Public Contract Code, and the California Code of Regulations. As referenced in those codes, “Responsible Charge” for the work shall be with a Licensed Architect or Registered Engineer in the State of California.
- 1.2.4. Architect-Engineer shall engage all appropriate specialty Subconsultants as are necessary for proper completion of the Services, at the sole expense of Architect-Engineer. Architect-Engineer’s contracts with Subconsultants (and their contracts with their subconsultants) shall incorporate this

contract by reference to the extent not inconsistent with Subconsultants' scope of work. District shall have the right (but not the obligation) to approve specialty Subconsultants engaged by Architect-Engineer, which approval shall not be unreasonably withheld.

- 1.2.5. To the extent necessary to complete its programming services for the Project, Architect-Engineer shall review as-built information supplied by District concerning existing structures, facilities and utilities. If such review indicates the need to verify and update existing information which requires extra cost, the District shall negotiate for Additional Services with the Architect-Engineer. Architect-Engineer is entitled to reasonably rely upon District supplied information.
 - 1.2.6. Throughout Architect-Engineer's performance of the Services, Architect-Engineer shall make written recommendations to District concerning any additional information necessary to complete the Services.
 - 1.2.7. Architect-Engineer shall provide District with a copy of all written communications and submittals to third parties regarding this Project.
 - 1.2.8. Unless otherwise directed herein or modified by mutual agreement during performance of this Agreement, Deliverables will be formally transmitted to the District in electronic format (MS Office, CAD, or graphic files, and a color copy in PDF format) on CD or flash drive (1 set), and 8 1/2" x 11", 8 1/2" x 14", 11'x17" or half-size for drawings, in bound paper hard copy form (3 sets).
 - 1.2.9. Filenames for electronic submittals shall be consistent with the Deliverable and shall begin with the Project Number-Project Name-Agreement Number, followed by the Deliverable description.
 - 1.2.10. Compliance with Laws: Architect-Engineer shall comply with the standard of care applicable to an Architect-Engineer experienced in schools design regarding the interpretation, application and compliance with all requirements of all applicable laws as if set forth in this Agreement, including without limitation California Administrative Code Title 24 (Public Works), Division 1 (Department of General Services), Chapter 1 ("Title 24"). Architect-Engineer shall perform all duties which Title 24 imposes on school project architects and engineers, including those summarized generally in Section 41 of Title 24.
 - 1.2.11. In the event any estimate during the course of the project indicates an Estimated Construction Cost in excess of the latest-approved Construction Budget or area calculation in excess of the latest approved Project Space Program, Architect-Engineer shall immediately meet and confer with District. Architect-Engineer shall prepare and offer reasonable alternatives for cost and/or space area reduction. Upon District acceptance of the alternatives, Architect-Engineer shall incorporate all changes to the documents, at no extra fee, and resubmit. In the event that District accepts alternates impacting in excess of 10% of the Project Space Program and/or Estimated Construction Cost and requiring a significant change in efforts by Architect-Engineer, Additional Services may be negotiated, or the Basic Fee may be re-negotiated. The Estimated Project Construction Cost and the Construction Budget shall be reconciled at the end of each design phase of the project and prior to commencement of the subsequent design phase.
 - 1.2.12. Additional Services, if any, shall be negotiated between the District and the Architect-Engineer based on the best rates of the Architect-Engineer as provided to any other public agency within the last year. Additional Services may only be requested in writing by the District Chief Facilities Planner, or Director of Construction Operations. Architect-Engineer shall allow no other District or college employees or representatives to bind the District to any Additional Service fees.
- 1.3. Contract Services
 - 1.3.1. Project Evaluation
 - 1.3.1.1. · Structural Engineer to provide Structural Assessment to determine if formal DSA application is required for this project.
 - 1.3.2. Construction Documents
 - 1.3.2.1. · Field verify existing conditions.
 - 1.3.2.2. · Coordinate consultant team.

- 1.3.2.3. · Prepare Bid Set of Construction Documents (drawings & specifications)
 - 1.3.2.4. · Coordinate with DVC Front End Specifications (Division 0 & 1)
 - 1.3.3. DSA Review & Approval (IF REQUIRED)
 - 1.3.3.1. · Submit project to DSA for review.
 - 1.3.3.2. · Respond to all DSA Back-check comments.
 - 1.3.3.3. · Attend DSA Back-check meeting(s) to obtain approvals.
 - 1.3.4. Bidding
 - 1.3.4.1. · Attend Pre-Bid Walk with prospective Contractors
 - 1.3.4.2. · Respond to Bidding Questions
 - 1.3.4.3. · Issue Addenda
 - 1.3.5. Construction Administration
 - 1.3.5.1. · Review shop drawings and submittals for conformance to design intent.
 - 1.3.5.2. · Respond to requests for information.
 - 1.3.5.3. · Maintain logs for RFI's, bulletins, and submittals.
 - 1.3.5.4. · Attend weekly construction meetings (prepare agendas & meeting notes).
 - 1.3.5.5. · Final Punch List: One visit and list will be provided when Contractor is substantially complete, whereupon it will be the responsibility of the Contractor to provide the Architect with photographic proof that all punch list items have been satisfactorily completed as determined by the Architect.
 - 1.3.5.6. · Conformed Documents & Record Drawings: General Contractor will maintain an up-to-date set of construction drawings posted with all addenda, bulletins, RFI responses, etc. throughout project, and upon completion will be responsible to provide the District with conformed-to-construction, as-built record drawings at the end of the job. The Design Team will review the Contractor's record drawings for general responsiveness and completeness, but it will be each Contractor's responsibility to prepare record drawings per the recommendations of the Architect and requirements of the District.
 - 1.3.6. Close Out
 - 1.3.6.1. · Review Contractor-provided Record Drawings
 - 1.3.6.2. · Review Contractor-provided Close Out Documents (warrantees, M&O manual)
 - 1.3.6.3. · Close Out project with DSA (IF REQUIRED)
 - 1.3.7. Additional Services
 - 1.3.7.1. · Additional Services will be those services and meetings not expressly set forth above. Additional services will not be performed without the Owner's authorization.
 - 1.4. Estimate of Construction Cost: Based upon the programming phase services performed, review initial budget estimates by applying parametric costs, unit costs, and other standard cost data to space and facilities requirements. Consider foreseeable Project costs, including construction, utilities connections, off-Site improvements, structural safety, landscaping, accessibility requirements, temporary relocation requirements, permits, fees, furniture, and movable and installed equipment. Report to District regarding variances between the Architect-Engineers' current Estimate of Construction Cost and the initial budget estimates contained in District's Program budget or Facilities Master Plan.
2. TERM:
- Consultant shall commence providing SERVICES under this Agreement on the date stated above and shall diligently perform the SERVICES as required and complete performance by June 20, 2019 or modified as agreed by both parties in writing.

3. PAYMENTS:

3.1. CONSULTANT shall provide SERVICES as listed in this Agreement Section 1.3.1 ONLY for a firm fixed price amount of:

TBD.

3.2. CONSULTANT shall bill monthly on a percentage of completion by task. DISTRICT shall not be liable to CONSULTANT for any costs or expenses paid or incurred by CONSULTANT in performing SERVICES for DISTRICT, except as approved by the DISTRICT Chief Facilities Planner. Payment shall be Net 30 days after approval of CONSULTANT's invoices. Additional Services may be added by Change Order either as additional fixed price amounts or on a time and material basis based on the rate schedule included in Exhibit A, which will be in effect for the term of this Agreement.

4. INDEPENDENT CONTRACTOR:

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

5. TAXES:

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

6. MATERIALS:

6.1. The CONSULTANT shall furnish all labor, materials, equipment, supplies and other items necessary to complete the SERVICES to be provided pursuant to this Agreement, at CONSULTANT's expense except as approved by the District as reimbursable.

6.2. The CONSULTANT's SERVICES shall be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her professional discipline.

7. STANDARD OF CARE:

The CONSULTANT shall render SERVICES in accordance with the standard of care, skill and diligence exercised by members of the same profession providing similar services under similar conditions at the locale of the PROJECT and at the time the SERVICES are to be performed. The CONSULTANT's standard of performance may not be altered, expanded or abridged by the application, interpretation or construction of any other provision of this Agreement. The CONSULTANT expressly disclaims all warranties, express, implied, or statutory regarding the SERVICES, including, without limitation, warranties of merchantability, fitness for a particular purpose, title and non-infringement. Neither party shall be liable, under any circumstances, for any incidental, indirect, exemplary, special or consequential damages.

8. CONFIDENTIALITY & USE OF INFORMATION:

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

8.2. The CONSULTANT shall advise the DISTRICT of any and all materials used or recommended for use by CONSULTANT to achieve the project goals that are subject to any copyright restrictions or requirements. In the event the CONSULTANT shall fail to so advise DISTRICT and, as a result of the use of any programs or materials developed by CONSULTANT under this Agreement, DISTRICT

should be found in violation of any copyright restrictions or requirements, or DISTRICT should be alleged to be in violation of any copyright restrictions or requirements, CONSULTANT agrees to indemnify, defend and hold harmless, DISTRICT against any action or claim brought by the copyright holder.

9. AUDIT & INSPECTION OF RECORDS:

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

10. WORKS FOR HIRE / COPYRIGHT / TRADEMARK / PATENT:

10.1. OWNERSHIP OF DOCUMENTS: The CONSULTANT understands and agrees that all matters produced under this Agreement shall be instruments of service of the CONSULTANT and shall become the property of DISTRICT for the purposes of repairs, maintenance, renovations, modernization, or other purposes, only as they relate to the Project for which the CONSULTANT was retained. The DISTRICT is not precluded from using the plans, record drawings, specifications, or estimates related to the Project for additions, alignments, or other developments on the site.

10.2. RE-USE OF DOCUMENTS: If the DISTRICT proposes, and CONSULTANT agrees, to reuse the plans prepared by CONSULTANT within DISTRICT, the following terms and conditions for the reuse shall be set forth in an Amendment to this Agreement or other subsequent writing executed by DISTRICT and CONSULTANT:

In the event DISTRICT ever desires, and it is mutually considered feasible, to erect all or part of another project which would be essentially identical to the PROJECT which is the subject of this AGREEMENT, the CONSULTANT agrees to:

- (i) Re-use as a separate project its design and the corresponding Contract documents;
- (ii) Prepare with appropriate compensation such modifications as may be dictated by current codes, topography, soils conditions, utility services, existing construction, and similar conditions;
- (iii) Perform with appropriate compensation as far as applicable all of the services provided by this AGREEMENT;
- (iv) In the event the DISTRICT re-uses drawings, the CONSULTANT's fees will take into account that no royalty will be paid for the re-used documents.

10.2.1. The ARCHITECT will retain the right to use the design, plans, drawings, and specifications prepared or provided by the ARCHITECT, its consultants, or sub-consultants for re-use on other projects for other districts or owners. Such re-use shall not entitle the DISTRICT to any notification, payment of any royalty, license fee, or other consideration.

10.2.2. However, under any circumstances, in the event of any reuse or modification of the CONSULTANT's drawings, specifications or other documents by any person, CONSULTANT or legal entity, the names and seals of the CONSULTANT and the CONSULTANT's Consultants, if any, shall first be removed from the CONSULTANT's drawings, specifications or other documents. The DISTRICT further agrees to indemnify, defend and hold the CONSULTANT 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, CONSULTANTS or any other legal entity, on account of any damage or loss to property or persons, including, but not limited to, death arising out of such use, reuse or modifications of the CONSULTANT's drawings, specifications or other documents.

11. TERMINATION:

11.1. DISTRICT may, at any time, with or without reason, terminate this Agreement and compensate CONSULTANT only for SERVICES satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of SERVICES by CONSULTANT. Notice shall be deemed given when received by the CONSULTANT or not later than ten (10) calendar days after the day of mailing, whichever is sooner.

11.2. DISTRICT may also terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include: (a) material violation of this Agreement by the CONSULTANT; or (b) any act by CONSULTANT exposing the DISTRICT to liability to others for personal injury or property damage; (c) or if CONSULTANT is adjudged a bankrupt, and CONSULTANT makes a general assignment for the benefit of creditors or a receiver is appointed on account of CONSULTANT's insolvency. Written notice by DISTRICT of termination for cause shall contain the reasons for such intention to terminate, and unless within ten (10) calendar days after service of such notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the ten (10) calendar days cease and terminate. In the event of such termination, the DISTRICT may secure the required SERVICES from another consultant. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to DISTRICT.

12. HOLD HARMLESS:

12.1. Subject to the provisions of Civil Code Section 2782.8, the CONSULTANT agrees to and does hereby indemnify, hold harmless and defend the DISTRICT and its officers, agents and employees from every claim or demand made and every liability, loss, damage or expense, of any nature whatsoever, to the extent incurred by reason of:

12.1.1. Liability for damages for: (1) death or bodily injury to person; (2) injury to, loss or theft of property; or (3) any other loss, damage or expense arising out of (1) or (2) above, sustained by the CONSULTANT or any person, firm or corporation employed by the CONSULTANT, either directly or by independent contract, upon or in connection with the SERVICES called for in this Agreement, however caused, except to the extent liability for damages referred to above result from the negligence or willful misconduct of the DISTRICT or its officers, employees or agents or of other third parties for which the CONSULTANT is not legally liable.

12.1.2. Any injury to or death of any person, including the DISTRICT or its officers, agents and employees, or damage to or loss of any property caused by any negligent act, default, or omission of the CONSULTANT, or any person, firm or corporation employed by the CONSULTANT, either directly or by independent contract, arising out of, or connected with, the SERVICES covered by this Agreement, whether said injury or damage occurs either on or off DISTRICT's property, except to the extent liability for damages results from the negligence or willful misconduct of the DISTRICT or its officers, employees or agents or of other third parties for which the CONSULTANT is not legally liable. The duty to indemnify, hold harmless and defend the DISTRICT shall also extend to claims arising solely from the professional negligence, errors or omissions of CONSULTANT. In all other cases CONSULTANT's obligation to indemnify for claims based upon professional negligence, errors or omissions, does not include the obligation to defend actions or proceedings brought against Indemnified Parties, but rather to reimburse the Indemnified Parties as damages attorney's fees and legal costs incurred by Indemnified Parties in defending such actions or proceedings brought against Indemnified Parties to the extent caused by CONSULTANT; but not for any loss, injury, death or damage caused by the negligence or willful misconduct of Indemnified Parties or of other third parties for which CONSULTANT is not legally liable. CONSULTANT may satisfy its defense obligation to Owner at the time of any judgment or settlement

12.1.3. Any liability for damages, which may arise from the furnishing or use of any copyrighted or uncopyrighted matter or patented or unpatented invention under this Agreement;

13. CERTIFICATE OF INSURANCE:

13.1. The CONSULTANT shall purchase and maintain such insurance as will provide protection against claims set forth below which may arise out of or result from the CONSULTANT's operations under the contract, whether such operations by the CONSULTANT or by any sub-consultant or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

13.1.1. claims under worker's compensation disability benefit and other similar employee benefit acts;

13.1.2. claims for damages because of bodily injury, occupational sickness or disease, or death of the CONSULTANT's employees;

- 13.1.3. claims for damages because of bodily injury, sickness or disease, or death of any person other than the CONSULTANT's employees;
- 13.1.4. claims for damages insured by usual personal injury liability coverage which are sustained, (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the CONSULTANT, or (2) by any other person for not less than \$1,000,000 for each accident; and
- 13.1.5. claims for damages because of injury to or destruction of tangible property, including loss of use resulting there from for not less than \$1,000,000.
- 13.2. Certificates of Insurance naming the DISTRICT as an Additional Insured shall be filed with the DISTRICT prior to commencement of the SERVICES. These certificates shall contain a provision that coverage afforded under the policies will not be cancelled until at least thirty (30) days prior written notice has been given to the DISTRICT.
- 13.3. **ADDITIONAL INSURED LANGUAGE:** "The District, the Governing Board, the Campuses, their Officers, Employees, Volunteers, Agents, and Students are covered as Additional Insureds". The acceptable Additional Insured Endorsement Form is CG 20 10 11 85.
14. ASSIGNMENT:
The obligations of the CONSULTANT pursuant to this Agreement shall not be assigned by the CONSULTANT.
15. COMPLIANCE WITH APPLICABLE LAWS:
The SERVICES completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT's general right of inspection to secure the satisfactory completion thereof. CONSULTANT agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now applicable to CONSULTANT.
16. PERMITS / LICENSES:
CONSULTANT and all CONSULTANT's employees or agents shall secure and maintain in force such permits, and licenses as are required by law in connection with the furnishing of SERVICES pursuant to this Agreement.
17. ENTIRE AGREEMENT / AMENDMENT:
This Agreement and any exhibits attached hereto constitute the entire agreement among the parties to it and supersede any prior or contemporaneous understanding or agreement with respect to the SERVICES contemplated and may be amended only by a written amendment executed by both parties to the Agreement.
18. NON-DISCRIMINATION IN EMPLOYMENT:
The CONSULTANT agrees that it shall not engage in unlawful discrimination in employment of persons because of race, color, religious creed, national original, ancestry, physical handicap, medical condition, marital status, or sex of such persons.
19. NON-WAIVER:
The failure of DISTRICT or CONSULTANT to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Agreement shall not be deemed a waiver by that party of such term or condition or prevent a subsequent similar act from again constituting a violation of such term or condition.
20. ADMINISTRATOR OF AGREEMENT:
This Agreement shall be administered on behalf of, and any notice desired or required to be sent to a party hereunder shall be addressed to:

For DISTRICT: Ms. Ines Zildzic
Chief Facilities Planner
Contra Costa Community College District
500 Court Street, Martinez, CA 94553

Phone: 925-229-6873; Email: izildzic@4cd.edu

For CONSULTANT: TBD

21. NOTICE:

All notices or demands to be given under this Agreement by either party to the other shall be in writing and given either by: (a) personal service or (b) by U.S. Mail, mailed either by registered or certified mail, return receipt requested, with postage prepaid. SERVICE shall be considered given when received if personally served or if mailed on the fifth day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either party may be changed by written notice given in accordance with the notice provisions of this section. At the date of this Agreement, the addresses of the parties are as set forth above.

22. SEVERABILITY:

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

23. GOVERNING LAWS:

The terms and conditions of this Agreement shall be governed by the laws of the State of California with venue in Contra Costa County, California.

24. WARRANTY OF AUTHORITY:

Each of the parties signing this Agreement warrants to the other that he or she has the full authority of the entity on behalf of which his or her signature is made.

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In witness thereof, the parties hereto have executed this agreement:

CONTRA COSTA COMMUNITY COLLEGE DISTRICT **TBD**

Assistant Secretary, Governing Board

Authorized Signature

David Wetmore, Director of Purchasing and Contract Services

Name, Title
Company

Date: _____

License No: _____

Federal Tax ID No: _____

Date: _____