

Notice of Request for Qualifications (RFQ)
RFQ No. P22/10047L
Architectural and Engineering Design Services
Project: Downtown Campus Hotel Properties Development

Pima County Community College District ("College" or "District") is seeking Statements of Qualifications (SOQ) from qualified firms to provide architectural and engineering design services for the Project: Downtown Campus Hotel Properties Development.

A Service Agreement will be awarded to a single firm.

DUE IN: The deadline for receipt of sealed Statements is: **February 22, 2022 at 3:00 PM (MST)**. Statement Packets must be electronically submitted by this deadline to the following location: EMAIL: do-bids-proposals@pima.edu ****ELECTRONIC SUBMITTALS REQUIRED****

Any packet received after the DUE IN and OPENS date and time listed above will be returned and not considered.

PRE-SUBMITTAL CONFERENCE is OPTIONAL but highly recommended and will be held virtually online. The purpose of this conference is to discuss requirements and review solicitation documents.

Date: January 28, 2022 at 10:00 A.M. (Tucson Time) at the following link:

Pre-Bid Meeting Link: <https://meet.google.com/tsb-kwxf-zzw>

Call In Phone #: (US) +1 980-477-0127

Conference ID: 921 353 138#

QUESTIONS pertaining to this Request for Qualification (RFQ) must be communicated in writing and be received via email by **January 27, 2022 at 3:00 PM (MST)**. Questions must be sent to the email address below and should include the specified Procurement Analyst's name and SOQ number. Question(s) should include a reference to the appropriate page and section number of the RFQ. Questions and answers will be posted on the Pima Community College webpage listed below by **February 4, 2022 at 5:00 PM (MST)**:

Jennifer Moore, CPPB, MBA - Senior Procurement Analyst
do-bids-proposals@pima.edu

Copies of the Request for Qualification (RFQ), possible future addenda, questions and answers, and any related documents are available on the Pima Community College Website: <http://www.pima.edu/administrative-services/purchasing/current-requests-for-proposals-bids-quotes.html>. It is the responsibility of all respondents to check the Website periodically for addenda and/or updates to the solicitation and to obtain this information in a timely manner. Failure to include acknowledgement of all addenda may be cause for rejection of the SOQ.

Accommodations for People with Disabilities. If the vendor or any of the vendor's employees participating in this RFP need, or have questions about the College's accommodations for people with disabilities, please make arrangements with the specified College buyer, via email provided. Such requests should be made as early as possible to allow time to arrange the accommodation(s).

Terry Robinson, CPPO, CPPB, MBA
Director of Procurement and Payment Services
Pima County Community College District
District Finance Office-Purchasing
4905 East Broadway, Room D-232
Tucson, Arizona 85709-1420

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Section 1: Introduction

Pima County Community College District (“College”) is seeking Statements of Qualifications from firms for Architectural and Engineering Design Services in accordance with the Scope of Work described herein.

Entity Submitting RFQ. The terms “vendor,” “offeror,” “firm,” “consultant,” “company,” or “contractor” used in this RFQ or any subsequent documents or communications related to this RFQ are interchangeable and mean the entity submitting a statement of qualifications and seeking to enter into a contract for the goods and/or services requested in this RFQ.

Section 2: Scope of the Project

General outline of Project provides an understanding of the professional services required and the basic design criteria.

- 1. Location:** Downtown Hotel Properties located in Tucson, AZ in the Miracle Mile Historic District:
Tucson Inn 127 W. Drachman St.
Copper Cactus Inn, 225 W. Drachman St.
Frontier Motel, 227 W. Drachman St.
- 2. Description:** Architectural design services for adaptive repurposing, historical preservation and development of the Downtown Campus Hotel properties (Tucson Inn, Copper Cactus, and Frontier Motel). Additional information provided in attached Executive Project Summary.

The College is planning for the adaptive reuse of these three historic hotel properties. These properties are listed as contributing structures to the Miracle Mile Historic District. In 2017 the Miracle Mile District was formally listed in the National Register of Historic Places. The District stretches from N. Fairview, east along Miracle Mile to Oracle, south to Drachman St., east to Stone to the Stone underpass.

Additional services to support the project include a feasibility study to assess the practicality of Tucson Inn demolition of back portion or restore for adaptive reuse/hotel use.

- 3. Budget:** The Project Budget allocation range is \$8.3 to \$14.5 million. This range represents the total amount available for project development including: new construction, site work, utilities, furniture and equipment and fees. The Construction Budget range the architect shall use for planning the facilities is \$6.5 to \$12.5 million. This final budget shall not be changed, except by a written notice from the Assistant Vice Chancellor of Facilities to the architect.
- 4. Professional Services:** Professional services will include the customary services provided as part of Architectural Services, including the necessary design, engineering and construction management services. In addition, services will be based on the following: The services outlined in the Pima Community College Facility Guidelines. The Guidelines will be referenced in the contract between the Architect and the College. The requirements of the College’s Administrative Procedures: AP20604 Capital Project Management applicable to the Architects’ service. The above documents describe how the College manages the facilities development process internally. Copies of these documents are on PCC Website. The College contract for Architectural services is included in this RFQ.
- 5. Delivery Method:** The College is planning to use the Construction Manager at Risk (CM@R) method of delivery, with a phased GMP (Guaranteed Maximum Price) for the construction work. The A&E Design Consultant will be selected prior to the selection of the Construction Manager in anticipation of collaboration during the design phase. The A&E Design Consultant will be a participating expert consultant of the Selection Committee for the CM@R.
- 6. Client:** Pima County Community College District Facilities Operations & Construction will be the Architect’s client and will coordinate the professional services required of the Architect.

7. Schedule Summary

Board of Governors – Architects Approval	<i>April 2022</i>
Design Development Complete	<i>September 2022</i>
Construction Documents Complete	<i>December 2022</i>
Bidding – CM@R	<i>March 2022</i>
Construction Completion	<i>November 2023</i>
Project Completion	<i>December 2023</i>
Occupancy	<i>January 2024</i>

Section 3: Solicitation Terms and Conditions

1. **Statement of Qualifications Opening.** SOQs are opened publicly by the office of Procurement and Payment Services. The College is not responsible for the pre-opening of, late opening of, or the failure to open, an offer not properly addressed or identified. No other information will be released until time of award. Proposal (SOQ) results will not be given in response to telephone inquiries.
2. **Effective period of proposals/SOQ.** In order to allow for an adequate time for evaluation, approval, and award of a contract, the College requires a proposal in response to this RFQ to be valid and irrevocable for ninety (90) days after the Opening Due Date and Time. Any firm who does not agree to this condition must specifically communicate such disagreement in its response to the College, along with any proposed alternatives as an exception. The College may accept or reject such proposed alternatives without further notification or explanation.
3. **Withdrawal.** Statements of Qualifications may be withdrawn until the date and time of the Opening. SOQs may not be withdrawn for ninety (90) days after the Opening.
4. **Deviation/Exceptions/Alternate Requests.** Offerors that propose modifications or request exceptions to the contract provisions must clearly identify the proposed deviations and any proposed substitute language on the appropriate Required Submittal Form. These should be identified and submitted with the RFQ response. Exceptions will be addressed during contract negotiations. Deviations must reference the specific paragraph number(s) and adequately defining the alternate or exception submitted. If no exceptions are taken, the College will expect and require complete compliance with the specifications and all conditions of the contract.
5. **Inquiries/Questions.** Only questions answered by a formal written amendment to the solicitation will be binding. Firms may only submit written questions via e-mail as noted on the Cover page. Oral interpretations or clarifications will be without legal effect.
6. **Addenda.** Any change to the solicitation SOQ will be in the form of a numbered addendum issued by the Procurement and Payment Services Department. Any addendum will be posted on the College's webpage listed on the Cover page of this SOQ. Other than official numbered addenda issued by the office of Procurement and Payment Services, oral or written advice or instructions made by any employees, officers, contracted consultants or agents of the College in regard to this solicitation are not binding on the College. The College will not be responsible for firms adjusting their offer based on oral or written instructions.
7. **Cancellation.** The College may cancel a solicitation in whole or in part if it is determined to be in the best interest of the College.

8. **Acceptance or Rejection of Statements.** The College reserves the right to waive any formalities and to reject any or all SOQs or any part(s) thereof, and/or to accept any SOQs or any part thereof and/or to cancel the request for SOQs . The College also reserves the right to reject the SOQs of any firm who has previously failed to perform adequately in furnishing materials, services or equipment to the College. The College reserves the right to negotiate any and all provisions presented in the SOQs.
9. **Waiver of Minor Imperfections.** The College reserves the right to waive minor imperfections, irregularities, technicalities, informalities, or apparent clerical mistakes in a SOQs.
10. **Public Information.** The College is obligated to abide by all public information laws. All vendor information regarding the proposal may become public information. All copies and contents of any proposal, attachment, and explanation submitted in response to this RFQ will become the property of the College, except any materials that both the vendor and College agree to classify as confidential, proprietary or trade secrets. These materials must be clearly marked by the vendor.
11. **Confidential Proprietary Information.** If the vendor includes in the proposal any information deemed confidential, proprietary, or protected, such information must be clearly marked as to any confidential/proprietary claim.

The College discourages the submission of such information considered to be protected and undertakes to provide no more than reasonable efforts to protect the confidential/proprietary nature of such information. The College, as a public entity, cannot and does not warrant that confidential/proprietary information will not be disclosed. The College will have the right to use any and all information included in the proposals submitted unless the firm expressly restricts the information. The College, as a public entity subject to Arizona public records law.

12. **Right to Use College Name Denied.** The firm is specifically denied the right of using in any form or media the name of the College for public advertising unless express permission is granted in writing by the College.
13. **Pre-Submittal Conference.** If scheduled, the date and time of a Pre-Submittal Conference is indicated on Cover Page of this document. Attendance at this conference, is optional unless mandatory, is so noted on the Cover page of this solicitation. The purpose of this conference will be to clarify the contents of this solicitation in order to prevent any misunderstandings. Any doubt as to the requirements of this solicitation or any apparent omission or discrepancy should be presented to the College at this conference. The College will then determine the appropriate action necessary, if any, and may issue a written amendment to the solicitation. Oral statements or instructions will not constitute an amendment to this solicitation. Written minutes and/or notes will not be available. If a firm is unable to attend a non-mandatory pre-proposal Conference, questions may be submitted in writing via e-mail as noted on the Cover page.
14. **Proposal, General Provisions.**
 - a. **Offer and Acceptance.** A response to the solicitation is an offer to contract with the College based on the provisions contained in the solicitation. An authorized signature on the cover letter accompanying the RFQ submittal and required documents will constitute an irrevocable offer to sell the goods or services specified and accept the terms of the subsequent contract, which will incorporate this solicitation.
 - b. **Cost of Preparation of SOQ.** Any and all costs associated with the preparation, presentation, demonstration, or submission of responses to this Request for Proposal will be entirely the responsibility of the contractor and does not commit Pima County Community College District to pay or reimburse any costs in any manner. These costs may include but are not limited to: time for interviewing or selecting any contractor(s) who responds, site visits, presentations, return of proposal, proposal materials, reproductions, copyright infringements, and any other costs.

- c. **Accuracy.** It is the responsibility of all firms to examine the entire RFQ solicitation documents and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting an Offer in the form of Statement of Qualifications. Negligence in preparing a an Offer confers no right of withdrawal after due date and time. Firms are responsible for errors and omissions in their proposals/offers. Failure to include all requested information will have a negative impact on the evaluation of the firm's proposal/offer and may result in rejection.
- 15. Waiver of Damage Claim.** Each firm, in submitting a proposal/offer, is deemed to have waived any claims for damages by reason of the selection of another proposal/offer I and/or the rejection of his/her proposal/offer.
- 16. Protests** are filed with the Procurement Director, Pima County Community College District (College), within 10 calendar days of the date that the Protester knows or should have known the basis of the protest or the award date, whichever is earlier. Failure to protest within the period shall be deemed a waiver of all rights to protest.

Section 4 Instructions

STATEMENT OF QUALIFICATIONS (SOQ) PREPARATION Before submitting a SOQ, each firm shall familiarize itself with the entire RFQ, including the Scope of Work, sample Agreement for Services, College's insurance requirements, and all laws, regulations and other factors affecting the firm's performance.

The firm is responsible for fully understanding the requirements of a subsequent contract, and shall otherwise satisfy itself as to the expense and difficulties accompanying the fulfillment of contract requirements. The submission of a SOQ will constitute a representation of compliance by the firm. There will be no subsequent financial adjustment for lack of such familiarization.

SOQs must conform to all requirements stated below. **Disregarding these requirements will result in disqualification of the SOQ.**

The College is currently **NOT** accepting "hardcopy" solicitation responses via mail or drop-off at District Office. District Office has been temporarily closed to the public. The College will only accept solicitation responses electronically via submission to the following email address and must be received at do-bids-proposals@pima.edu by the original date and time identified on the Cover page or as changed by the issuance of an Addendum.

All SOQ materials must be sent electronically and clearly marked in the subject line with the Company Name, solicitation title, solicitation number, and calling for the attention of the assigned Procurement Analyst.

It is the responsibility of the firm to ensure that SOQ(s) is received electronically by the Due Date and Time stated on the Cover Page of this solicitation or as amended by a solicitation Addendum.

- A.** The proposal packet must consist of one (1) original copy of the proposal in **PDF** format, clearly marked "Original". The firm's SOQ packet must be one combined PDF document with all required documentation. Do not submit your response as separate files.
- B.** SOQ must be typewritten on standard paper size (8½ x 11 inches), and include page numbers.
- C.** The SOQ will incorporate the **Forms** provided in this RFQ solicitation. It is permissible to copy these forms as required. The authorized person signing the SOQ will initial erasures, interlineations or other modifications on the SOQ forms.
- D.** Responses are to be provided on the **Forms included in this solicitation**. Responses must be clear and thorough, but concise, and written in plain, easy to understand language. Responses must follow the numbering format used in this RFQ. Supporting documents must be clearly titled and reference the applicable form.
- E.** The SOQ should be organized in sections with Tabs as outlined below.

Tab 1: Cover Letter

All SOQ responses must include the following:

- a. Cover letter submitted under the firm's name on the firm's letterhead containing the signature and title of a person or an official of the firm who is authorized to commit the firm to a potential contract with the College (include email address and phone number);
- b. The cover letter must also identify the primary contact for this SOQ with current contact information: email address, phone number and office address;
- c. The cover letter should express the firm's interest and serve as an executive summary of the Statement of Qualifications;
- d. Cover letter should reference the College's RFQ number found within this solicitation.

The cover letter should be addressed to the assigned procurement analyst; The SOQ Table of Contents should be a maximum of two (2) pages (this item is not scored).

Tab 2: Required Submittal Forms

SOQ must include all Required Submittal Forms, which are provided in this solicitation. Required submittal forms should be completed and signed by a person or an official authorized to commit the firm to a contract with the College.

The Offer will complete each of the below six (6) **Required Submittal Forms**, and organize the forms in the following order:

1. SOQ Certification Form
2. Exceptions to College's Consultant Service Agreement
3. Offeror's Proprietary/Confidential Information Form
4. Mandatory Certifications Form
 - a. Relatives Substantial Interest
 - b. Boycott of Israel
 - c. Legal Worker Verification Requirement
 - d. Status With Regard To Debarment, Or Suspension By Any Governmental Entity
 - e. anti-lobbying certification and disclosure
5. Appendix Form
 - a. Litigation
 - b. Cancelled, Debarred or Suspended
 - c. Prior Use
 - d. Cooperative Agreement
 - e. Subcontract, Third Party
6. Non-Collusion Affidavit Form

Tab 3: Statement of Qualifications (SOQ) Forms

The content of the Statement of Qualifications (response to the evaluation criteria) must describe the firm's qualifications to provide the technical registrant and professional consulting services using the SOQ Forms contained herein.

This solicitation includes five (5) forms that will comprise the SOQ to be prepared by the Offeror. The Offeror will complete the forms as per the guidance and questions contained therein. Each form included in this RFQ solicitation, along with any supporting documentation, the Offeror will submit such detailed responses together with its original SOQ packet.

1. Firm Experience Form
2. Project Architectural Team Experience Form
3. Project Engineering/Consultant Team Experience Form
4. Project History of the A & E Teams Form
5. Design Methodology and Approach Form
6. References Form

STATEMENT OF QUALIFICATION (SOQ) SUBMITTAL: SOQ must conform to all requirements stated below. *Disregarding these requirements may have a negative impact on the evaluated score or result in the Offer (SOQ) being determined non-responsive and therefore not eligible for award of contract.*

1. All SOQ materials must be clearly marked with the Request for Qualification (RFQ) title, solicitation number, and the firm's name.
2. It is the responsibility of the firm to ensure that complete SOQ submittals are received at do-bids-proposals@pima.edu by the Due Date and Time (deadline) stated on Cover Page of this RFQ solicitation or as changed by a solicitation addendum.
3. The firm is responsible for delivery of their SOQ packet by the Due Date and Time (deadline) notwithstanding any claims of error or failure to perform by email transmission.
4. No Statement of Qualifications or SOQ modifications may be submitted orally, or via telephone, facsimile, or telegraph.
5. OFFER AND ACCEPTANCE PERIOD: In order to allow for an adequate evaluation, the College requires an offer submitted in the form of a SOQ in response to this solicitation to be valid and irrevocable for ninety (90) days after the solicitation Due Date and Time.
6. SOQ Packet must be compiled in the following order:

Tab 1: Cover Letter

Tab 2: Required Submittal Forms

Tab 3: Statement of Qualifications (SOQ) Forms

Section 5 RFQ Selection Process, Evaluation Criteria, Interviews, Negotiations

Types of Selection Processes

The selection process may entail a two-step process.

TWO-STEP -) selection process will entail the evaluation of SOQ packet and a Presentation and/or Interviews. Under a Two-Step process, a qualified selection committee will short-list the Offerors based on the evaluation scores of the SOQs. The short-listed Offerors will be invited to participate in. Presentations/Interviews with the intent of selecting the most qualified firm to enter into negotiations for a contract.

Overview of the Selection Process

1. A qualified selection committee will evaluate and score responses based on the selection criteria and relative weight of the selection criteria stated in this Request for Qualifications.
2. The selection committee will determine the persons or firms to be on the final list and/or to be interviewed by evaluating the Statements of Qualifications that are submitted in response to this request for qualifications based only on the evaluation criteria and relative weight of the evaluation criteria stated in this Request for Qualifications.
3. Following the evaluation and ranking of SOQs, the College may, at its discretion, interview the top ranking firms.
4. The College reserves the right to conduct interviews with some or all of the Offerors at any point during the evaluation process. However, the College may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process will be taken into consideration when evaluating the stated criteria.
5. The College will award contracts to consultants, based only on the scores resulting from the evaluation of the SOQs, and interviews (as deemed necessary); followed by the successful negotiation of fair and reasonable fees schedules with the highest ranked and most qualified consultants.
6. Additional Investigations: The College reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any Offeror submitting a Statement of Qualifications.

Statements of Qualifications will be evaluated and rank ordered, by an evaluation committee. It is the responsibility of the responding firm to provide CLEAR AND CONCISE information specifically addressing all of the Evaluation Criteria.

A Selection Committee (SC) will evaluate statements of qualifications and score based on the following evaluation criteria, which are listed in descending order of importance:

Evaluation Criteria	Maximum Points
A. Firm Experience	20
B. Project Architectural Team Experience and Qualifications	20
C. Project Engineering Team Experience and Qualifications	20
D. Project History of the A & E Teams	20
E. Design Methodology and Approach	15
F. References	5
Total Possible Points	100
F. Interview Total Possible Points 100	
G. Negotiations of Fee Schedule and Terms	

Interviews: Following the evaluation, scoring and ranking of the Statements of Qualifications, the College may, at its discretion, interview the top ranking firms.

Selected Offeror(s) may be required to make virtual oral and visual presentations or demonstrations at the request of the College. The College will schedule the time and location for any presentation (which may be virtually). Costs and equipment for such presentations are the responsibility of the Offeror.

Negotiations of Contract Terms and Compensation Fee Schedule: The College will enter into negotiations with the highest ranked Statement of Qualifications on the final list. The negotiations will include a request for compensation fee schedules to determine fair and reasonable compensation; and consideration of any requested exceptions taken by the Offeror to the Consultant Service Agreement terms. Negotiated fee schedules will be compliant with federal standards by providing a Fee Schedule or Fee Estimate Summary, presenting both prime and subcontractor disciplines, direct labor rates, overhead, profit, billing rates; and the firm's most current Generally Accepted Accounting Principles (GAAP) Audit Statement with FAR Adjusted Overhead presented.

If the College is not able to negotiate satisfactory contract terms or a fair and reasonable Compensation Fee Schedule with the Offeror on the final list, the College will formally terminate negotiations. The College will then undertake negotiations with highest ranked and qualified Offeror on the final list until an agreement is reached or until procurement action is terminated.

Section 6 Contract Award and Execution

A. GENERAL

1. Upon execution of the contract, a copy of this RFQ will be attached to the contract and all conditions of this RFQ will become conditions of the contract unless specific conditions of the RFQ are deleted by other terms of the contract.
2. The Architect's fee will be negotiated with the Architect per Arizona State Procurement Rules after Architectural firm has been selected. The fee will be based on the services requested in this RFQ. Upon acceptance of the fee by the College, the College will issue a purchase order.
3. The College recognizes that over the term of the contract, members of the project team listed in the Architect's proposal may change. The architect will provide information similar to the original information in the RFQ substantiating a similar level of knowledge and ability for replacement team members.
4. Once a fee per #2 above has been negotiated and accepted, members of the project team for that project may not be removed from the project team without the written consent of the College.

B. FINANCIAL STABILITY

If requested, prior to contract negotiation and award, furnish appropriate documentation to substantiate the financial stability of the firm to undertake this project.

Required RFQ Submittal Forms

Certification Form

In response to RFQ No. P22/10047L Title: Downtown Campus Hotel Properties Development is submitted by: _____,

(Company Name)

a corporation organized and existing under the laws of the State of _____;

a partnership, registered in the State of _____, and consisting of _____;

an individual trading as _____,

located at _____

Federal Tax Id No. _____

The undersigned, as a duly authorized officer, hereby agrees to be bound by the content of this Proposal and agrees to comply with the terms, conditions and provisions of the referenced RFQ and any addenda thereto in the event of an award. Exceptions are to be noted as stated in the RFQ. The proposal will remain in effect for a period of ninety (90) calendar days as of the Due Date for SOQs to the RFQ.

The undersigned understands that the College reserves the right to reject any or all Proposals or to waive any formality or technicality, as determined by the College in its sole discretion, in any Proposal in the interest of the College.

The undersigned hereby acknowledges receipt of the following Addenda, if any:

Addendum No.	Date:	Addendum No.	Date:

The undersigned hereby certifies that this Statement of Qualifications is genuine and not a sham or collusive, nor made in the interest or behalf of any person not herein named, and that the undersigned has not directly or indirectly induced or solicited any other Offeror to put in a sham proposal, or any other person or entity to refrain from submitting proposals, and that the Offeror has not in any manner sought by collusion to secure for itself an advantage over any other Offeror.

The undersigned further certifies that your firm (check the appropriate areas):

- women-owned business; minority-owned business; labor surplus area firm
- does **or** does not meet the Federal (S.B.A.) Small Business definition (FAR 19.001) and size standards (FAR 19.102). If it does, please "CHECK" one of the following:
- small business; veteran-owned small business; service-disabled veteran-owned small business;
- HUB Zone small business; small disadvantaged business; or women-owned small business.

The undersigned further certifies that as a duly authorized officer, he or she is authorized to negotiate in good faith on behalf of this firm for purposes of this RFQ.

Authorized Signature/Date _____

Print Name _____

Title _____

Email Address _____

Phone # _____

Exceptions Requested Form

Company Name _____

Any exceptions to the requirements of this RFQ, including the Contract and Scope of Work, that the Offer requests the College to consider must be addressed on this form.

Each Exception or Alternate should be addressed separately with specific reference to the requirement, specification including the page number, paragraph, and sentence and section number. For each exception, the Offeror will provide all of the following information: (i) Name of the Document/Attachment; (ii) Agreement Page Number and Section Number; (iii) Exception; (iv) Justification for Exception. Blank, unjustified, or unsupported requests will be disregarded.

Any exceptions requested from the College' Sample Agreement must be provided, using this Exception Form.

If there are **NO** proposed alternates or exceptions, a statement to that effect must be provided.

_____(initial) Contractor certifies this proposal has taken **NO** exceptions and does not propose alternates.

Exceptions/Alternates are noted in the space below or are included as an Attachment to this section.

Authorized Signature/Date _____

Print Name _____ **Title** _____

Confidential and/or Proprietary Declaration Form

Company Name _____

In the event the Offeror elects to include in its SOQ any information deemed "proprietary" or "protected," it will clearly mark the information as to any proprietary/confidential claim. Indicate in the space below specific reference to the requirement, specification including the page number, paragraph, and sentence and section number that which is deemed confidential or proprietary by the Respondent.

The College discourages the submission of such information and undertakes to provide no more than reasonable efforts to protect the proprietary nature of such information. The College, as a public entity subject to Arizona public records law, cannot and does not warrant that proprietary information will not be disclosed.

The College will have the right to use any and all information included in the SOQs submitted unless the information is expressly restricted by the Offeror.

If the SOQ contains **NO** confidential/proprietary information, a statement to that effect must be provided.

_____(initial) Contractor certifies this SOQ contains **NO** confidential and/or proprietary information.

Confidential/Proprietary Information. Contractor as indicated in the space below certifies the following pages, sections, paragraphs contain confidential and/or proprietary information. **If additional space is required, provide information on a separate page and submit as an attachment to this form.**

Authorized Signature/Date _____

Print Name _____ Title _____

Mandatory Certifications Form

Company Name _____

A. Conflict of Interest Certification

_____ **(initial)** The Offeror certifies that to the best of his/her knowledge there is **NO** officer or employee of College who has, or whose relative has, a substantial interest in any contract resulting from this Statement of Qualifications.

_____ **(initial)** The names of all public officers or employees of College who have, or whose relative has, a substantial interest in any contract resulting from this Statement of Qualifications, and the nature of the substantial interest, are included below or as an attachment to this certification form.

First, Last Names	Title

B. Boycott of Israel Certification

As required by the Arizona Revised Statutes § 35-393.01, College is prohibited from awarding a contract to any Contractor for delivery of services, supplies, information technology or construction unless the contract includes a written certification that the Contractor is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel.

A breach of the forgoing warranty certification will be deemed a material breach of the resulting contract. In addition to the legal rights and remedies available to College under the law. In the event of such breach, College will have the right to terminate the resulting agreement with the Offeror.

_____ **(initial)** Accordingly, the Offeror by initialing certifies Offeror is not currently engaged in boycott of Israel, and will not for the duration of the resulting contract with College under this RFP engage in a boycott of Israel.

C. Worker Eligibility Verification

As required by the Arizona Revised Statutes § 41-4401, College is prohibited from awarding a contract to any Contractor who fails, or whose subcontracts/subrecipients fail, to comply with A.R.S § 23-214 governing the employee verification requirements through the federal e-Verify program.

_____ **(initial)** Accordingly, by initialing certifies that Offeror (1) complies fully with all applicable federal immigration laws and regulations that relate to its employees; that it will, as applicable or required under A.R.S § 23-214, verify, through the e-Verify program as jointly administered by the U.S. Department of Homeland Security and Social Security Administration or any of its successor programs, the employment eligibility of each employee hired to work on the resulting agreement with College; and (2) that it will, as applicable or required under A.R.S § 23-214, require its subcontractor and subrecipients to provide the same warranties to the Offeror.

A breach of the forgoing warranty certification will be deemed a material breach of the resulting contract. In addition to the legal rights and remedies available to College under the law. In the event of such breach, College will have the right to terminate the resulting agreement with the Offeror.

Upon request, the College will have the right to inspect the papers of each Contractor, subcontractor or any employee of either who performs work hereunder for the purposes of ensuring that the Contractor or subcontractor is in compliance with the warranty certification set forth herein.

Authorized Signature/Date

Print Name

Title

Appendix Form

Company Name _____

In each space provided below, provide a detailed answer or indicate Not Applicable (N/A). If additional space is needed, answers may be provided on a separate document and be attached to this form.

- a. **Litigation:** Details of any litigation your company or any of its subsidiaries or affiliates has had in the past five (5) years related to the performance of services provided by your firm.

- b. **Canceled, debarred, suspended:** If a firm has had any previous contracts canceled or is currently debarred, suspended, or proposed for debarment by any government entity, the current status must be documented in this section.

- c. **Prior Use:** If any customer has stopped using the product(s) or service(s) you are proposing, provide details including customer name, date when product was installed, date when product was discontinued (usage) and reason for discontinuation, including contact details of the customer.

- d. **Cooperative:** If the firm intends to use any cooperative, for the purposes of this SOQ, the firm must submit a copy of the Cooperative Contract.
- e. **Subcontract, third party agreement,** or the like to perform under their SOQ:, the firm must supply the name, address, qualifications and criteria used by the firm for selection of any third party, and the intended services to be performed. **The services provided under the Scope of Work proposed, in part or in whole, shall not be subcontracted without prior written permission of the College.**

Authorized Signature/Date _____

Print Name _____

Title _____

Statement of Qualifications (SOQ) Forms

Instructions:

Each firm will be limited in the total number of pages submitted as part of their Statement of Qualifications (SOQ) packet.

Due to the offeror's time and cost in preparing this document, along with the challenge of thoroughly reading and evaluating these documents, the College will limit the total number of content pages to (single sided using minimum 11 point font). **A "page" is limited to one side of an 8-1/2 by 11 inch sheet of paper:**

Documents that will not be considered in this total number of content pages will be financial statements, letters from financial/insurance institutions, cover page, index, offer acceptance form, insurance certificates, non-collusion affidavit, and tab pages.

The tab pages will be used to reference each section and can be used for pictures or art work. Appendices may be attached as back up information; 254 & 255 forms are **not** required.

The College has attempted to streamline the amount of required information as noted on each Form. Firms are strongly encouraged to present their offers in strict accordance with the noted outline.

The SOQ must adhere to the order and response length indicated per each Criteria Response.

Note: When a response to a question is provided as an attachment, clearly identify each question number (1,2,3) or letter (A,B,C) to your response and ensure the form's title is referenced – for example:

Firm Experience Form – response to A: Firm's Size and Work Load

(1) Firm's Experience Form

This evaluation criteria is twenty (20) points maximum.

Company Name _____

A. Firm's Size and Work Load (one page maximum, five points)

Clearly indicate the **total number of professional and technical staff, and technical professional registrants** (Registered Architects, Engineers and other professionals. Indicate location (include city, state) where staff regularly performs multiple tasks, include them in the most responsible position for which they spend at least 25% of their time.

B. Firm's Project Experience (four pages maximum, ten points)

Summarize experience within past seven (7) years of the firm with no more than three (3) projects of **similar** type and scope for which the firm is the firm of record. Similar projects include other; and/or a successful history of similar scope projects.

Definitions:

Project Type: new construction, addition, renovation, restoration, historic preservation etc.

Project Budget: the cost of construction of the project.

Project Manager: the person responsible to the client for the overall success of the project.

Project Architect: the person responsible for coordinating the day to day work of the project design team, construction document preparation and construction administration.

Project Designer: the person responsible for the design concepts.

Project Engineer(s): the person(s) responsible for the design, construction, document preparation and construction administration of specialized parts of the project.

Project Role: the role within the design team: Project Manager, Project Architect, Project Designer, etc. If the scope of project was small and one individual did more than one job, just list the individual once.

Use the following format for each project:

Past Project: Project Name, Owner or Client Project Type, Size (s.f.), Project Budget, Date of Completion	Key Personnel: Project Manager, Project Architect, Project Designer, Project Engineers and other Consultants	Narrative on the Project: Describe how the project is similar and why your experience is relevant to this SOQ. Describe best practices.

C. Contract Service (one page, five points)

Does the firm have a local presence? If not, how will the firm provide the contracted services? Discuss in detail the firm's management and operating strategy. Does your firm use sub-consultants? Discuss Subconsultants and how they will be used for performance of services under this contract. Per the Pima Community College Facilities Guideline, Part I, Section 3.3, the cost of travel and long distance service by out of town Consultants or sub-Consultants to perform basic services of the contract will be included in the basic service fee.

(2) Project Architectural Team Experience Form

This evaluation criteria is twenty (20) points maximum. This form should not exceed five (5) pages.

Company Name _____

Instructions: This form should be completed for *each key personnel* involved in the performance of this contract. {Form for each key personnel should not exceed five (5) pages.}

Answer all questions in the space provided. Space will increase as information is typed. You may include more than one architect/engineer for each discipline. A separate resume (maximum two (2)pages) may be included and attached as a second page to this form. The resume is to be used to supply relevant information pertaining to the performance of this contract and is to be supplemental to the information below and is not to be used to replace this form.

NOTE: For projects that are the same as in Projects Listed under Firm Experience, provide the "**Project name**" only and say "refer to Firm Experience", and provide the person's project role. For personal experience, that is experience with another firm, put a double asterisk (**) after the project name.

Employee Name:		
Position currently held in firm:		
Years with the Firm:	Years in current position:	
Role under this Contract:		
Years of experience as role for this contract:		
Job related Education and Training:		
Job Related Registrations, Certifications:		
Describe his/her project role as structured within your firm and within this particular project team:		
Identify the primary function(s) of the employee in performing the services required by this solicitation:		
List employee's relevant experience using the following 3-column format:		
Project Name, Owner or Client Project Type, Size (s.f.), Project Budget, Date of Completion	Project Role (Manager, Project Architect, etc.)	Narrative on the project: Describe how the project is similar and why the person's experience is relevant to this project.

(3) Project Engineering/Consultant Team Experience Form

This evaluation criteria is twenty (20) points maximum. This form should not exceed five (5) pages).

Company Name _____

Instructions: This form should be completed for *each key personnel* involved in the performance of this contract. {Form for each key personnel should not exceed five (5) pages.}

Answer all questions in the space provided. Space will increase as information is typed. You may include more than one engineer for each discipline. A separate resume (maximum two (2) pages) may be included and attached as a second page to this form. The resume is to be used to supply relevant information pertaining to the performance of this contract and is to be supplemental to the information below and is not to be used to replace this form.

Provide the name of each project engineer and Consultant who you anticipate you will use during the term of this contract.

NOTE: For projects that are the same as in Projects Listed under Firm Experience, provide the "**Project name**" only and say "refer to Firm Experience", and provide the person's project role. For personal experience, that is experience with another firm, put a double asterisk (**) after the project name.

Employee Name:		
Position currently held in firm:		
Years with the Firm:	Years in current position:	
Role under this Contract:		
Years of experience as role for this contract:		
Job related Education and Training:		
Job Related Registrations, Certifications:		
Describe his/her project role as structured within your firm and within this particular project team:		
Identify the primary function(s) of the employee in performing the services required by this solicitation:		
List employee's/consultants relevant experience using the following 3-column format:		
Project Name, Owner or Client Project Type, Size (s.f.), Project Budget, Date of Completion	Project Role (Manager, Project Architect, etc.)	Narrative on the project: Describe how the project is similar and why the person's experience is relevant to this project.

(4) Project History of the A & E Teams Form

This evaluation criteria is twenty (20) points maximum. This form should not exceed five (5) pages.

Company Name

Establish the experience and record of the Project Team. For **each** project listed in Form 1, and for significant relevant projects listed in Forms 2 and 3, provide the following information about each project:

- a. Based on the client's educational specifications and the architectural program, does the client perceive the project as meeting all the stated goals?
- b. How did your estimates at the various project phases track with the client's budget and the accepted bid? Does the client perceive the project as being completed within budget?
- c. What percentage of the low bid was the final total cost of non-client requested change orders? Does the client perceive that the project had few change orders?
- d. How does the actual design and construction schedule compare to the client's initial project schedule? Does the client perceive the project as being completed on time?

Use the following 2 column format to provide response.

Project Name, Owner or Client	<<<response>>>
Project is referenced on Form 1, Form 2 Form 3	<<<response>>>
a. Based on the client's educational specifications and the architectural program, does the client perceive the project as meeting all the stated goals?	<<<response>>>
b. How did your estimates at the various project phases track with the client's budget and the accepted bid? Does the client perceive the project as being completed within budget?	<<<response>>>
c. What percentage of the low bid was the final total cost of non-client requested change orders? Does the client perceive that the project had few change orders?	<<<response>>>
d. How does the actual design and construction schedule compare to the client's initial project schedule? Does the client perceive the project as being completed on time?	<<<response>>>

(5) Design Methodology and Approach Form

This evaluation criteria is fifteen (15) points maximum.

Company Name _____

A. Design Methodology (two pages design methodology/five pages examples), five points
Explain the firm's design methodology and approach to understanding the College's goals and needs. Focus on how you will interact with the user groups. How will the requirements of the facilities/ academic program be developed into an architectural solution and tracked throughout the process. What are the aesthetic opportunities and challenges you perceive in these projects? **Use no more than two pages for the narrative.**

Provide examples via reproduction of drawings, color copies of photos or other means of your past work which you feel best expresses the firm's aesthetic capabilities as it relates to this project. **(examples should not exceed five pages)**

B. Assumptions and Owner Responsibilities (one page), five points
Provide a discussion of your assumptions that you made in your design methodology approach narrative. Provide a discussion of the owner's responsibilities in your design methodology approach.

C. Quality Control and Schedule Control Procedures/Processes (six pages), five points
Quality: Describe the methods used by the firm to check the quality and completeness of the firm's construction documents, such as coordination checklists and coordination review meetings. Also describe on-going processes, such as TQM, used by the firm to improve its level of service.

Schedule: Describe the methods used by the firm to prepare and maintain project schedules during design and during administration. Describe your process for managing your office work load and integrating new projects. How long do you anticipate between your first notification of a project and when you will be able to start work?

(6) References Form

This evaluation criteria is five (5) points maximum. Statement must not exceed one (1) page.

Company Name _____

Provide at least four Owner(College)/User references on projects listed in Form 1 – Firm Experience and/or significant projects listed in Form 2 – Team Experience Form. **Only** provide references for projects listed in Forms 1 and/or 2. References will be checked for short-listed firms. Provide **all** of the following information for **each** reference:

Owner	Project Name
Owner's Academic Rep Name, Title (President, Dean, Department Chair, etc.) Rep's Current Address Rep's Current Phone Number	Contractor's Name Contractor's Project Manager P.M.'s Current Address P.M.'s Current Phone Number
Owner's Facility Rep Name, Title (Director of Operations or Facilities Planning, etc.) Rep's Current Address Rep's Current Phone Number	Construction Manager (if applicable) CM Project Manager (if applicable) CM P.M.'s Current Address (if applicable) CM P.M.'s Current Phone Number (if applicable)
Owner's Facility Rep Name, Title (Director of Operations or Facilities Planning, etc.) Rep's Current Address Rep's Current Phone Number	Construction Manager (if applicable) CM Project Manager (if applicable) CM P.M.'s Current Address (if applicable) CM P.M.'s Current Phone Number (if applicable)
Owner's Facility Rep Name, Title (Director of Operations or Facilities Planning, etc.) Rep's Current Address Rep's Current Phone Number	Construction Manager (if applicable) CM Project Manager (if applicable) CM P.M.'s Current Address (if applicable) CM P.M.'s Current Phone Number (if applicable)

**The points for references will be awarded on an all-or-nothing basis for correctly providing references. If interviews are conducted with the short-listed firms, the evaluation of the information provided by the reference will be part of the overall evaluation performed.*

**A&E DESIGN SERVICES AGREEMENT
PROJECT – DOWNTOWN CAMPUS HOTELS DEVELOPMENT**

**SERVICE AGREEMENT BETWEEN ARCHITECT AND OWNER, CONSTRUCTION MANAGER AS
CONSTRUCTOR**

By this AGREEMENT, effective this _____ day of _____, 2022, by and between Pima County Community College District ("Owner"), an Arizona community college district organized and operating in Pima County, Arizona, and _____, whose principal _____ place _____ of _____ business _____ is _____ located at _____

_____, Arizona _____ ("Architect"), the Owner and the Architect enter into the following contractual arrangement:

1 Purpose

The Owner and the Architect agree that the Owner intends to design and construct **Project: Downtown Campus Hotels Development** and that by this Agreement Architect agrees to perform professional services for the Owner's development of a project:

- .1 Renovation and adaptive reuse of the Downtown Campus Hotels: Tucson Inn, Copper Cactus Inn, and Frontier Motel;
- .2 Perform a feasibility study to determine best option for use of Tucson Inn and additional development options parking or new building construction at the Frontier Inn;
- .3 Collaboratively perform services as required during design and construction phases with Construction Manager and Owner as part of a Construction Manager at Risk delivery method;
- .4 the scope of which is defined and incorporated by reference hereto as **Appendix 1: Project Executive Summary, Appendix 2: Facility Guidelines and Specifications Standards (10/19) and Appendix 3: AP2.06.04 Capital Project Management (rev date 5/13/97)**;
- .5 **Attachment A: General Terms and Conditions, Attachment B: Federal Acquisition Regulations** are attached to this Agreement and incorporated as applicable.
- .6 Architect is responsible and responsive having submitted a Statement of Qualifications and successfully completed negotiations in response Request for Qualifications (RFQ) No. P22/10047L. The RFQ including the statement response are incorporated by reference.

2 Basis of Compensation

.1 The Owner shall compensate the Architect for the professional services provided hereunder in accordance with the Rates/Fees provided in **Attachment C: TBD – Fee Proposal**, subject to Paragraph 15, "Payment to the Architect," and other terms and conditions of this Agreement, as follows:

.1 FOR BASIC SERVICES, as described in Paragraphs 6 through 10, and any other services included herein as part of Basic Services, the Architect's Fee shall be per Request for Qualifications (RFQ) No. P22/10047L. Upon acceptance of the fee by the College, the College will issue a purchase order that references the contract on file.

.2 Payment of the Architect's Fee for Basic Services shall be made as provided in Paragraph

15 and for each Phase shall equal the following percentages of the total Fee payable for each Phase of a project:

Schematic Design Phase	fifteen percent (15%)
Design Development Phase	twenty percent (20%)
Construction Documents Phase	thirty-five percent (35%)
Bidding	five percent (5%)
Construction Administration Phase	twenty-four percent (24%)
Warranty Phase	one percent (1%)

.3 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Paragraph 12, but excluding Additional Services of consultants, compensation shall be computed per **Attachment D**: and as follows:

[TBD – Additional Services Fee Estimate Summary](#)

.4 FOR ADDITIONAL SERVICES OF CONSULTANTS, including landscape, civil structural, mechanical, electrical or other consulting engineering services and those provided under Paragraph 12 as part of Additional Services, 1.1 the amounts billed to the Architect for such services.

.5 The Owner's written approval of any Additional Services shall contain a full description of the scope of such services, the maximum fee approved, the signatures of the Architect and the Owner, and the date of execution.

.6 FOR REIMBURSABLE EXPENSES, as described in Paragraph 11 "Reimbursable Expenses," the actual amounts expended by the Architect, the Architect's employees and consultants for the benefit of a project, or at the rates specified in Paragraph 11.

3 Agreement to Comply with A.R.S. § 34-104

.1 The parties agree, as a matter of contract, that they will both be bound by the provisions of Arizona Revised Statutes § 34-104, as amended, except the limitations on fees, which is made a part of this Agreement by this reference and shall take precedence over any parts hereof that are inconsistent with § 34-104.

4 Allocated Amount for Construction of Project

.1 The restoration development Project Budget is a range of **\$8.3 to \$14.5** million dollars.

.2 The **Construction Budget** range the architect will use for planning the construction of the project is **allocated** to a range of **\$6.5 to \$12.5 million dollars**. The Architect agrees to develop a project to meet the Allocated Amount or less, if reasonably possible. The Architect shall not be a guarantor that a project can be developed for the allocated amount. If the Architect determines at any time during the development of a project that the Allocated Amount cannot be met, he shall cease work immediately and notify the Owner of that determination. The Owner's written approval must be obtained before the Architect may proceed further with his work on a project.

5 The Architect's Professional Services

The Architect's professional services shall consist of the five (5) phases set forth below in Paragraphs 6 through 10, inclusive, "Basic Services," and shall include architectural, cost estimating at schematic design, landscape, on-site civil engineering, structural engineering, mechanical engineering, electrical engineering, and such other consulting services as are reasonably necessary for design and construction administration of a project. The names of each consultant are indicated per submitted Statement of Qualifications, which consultants may not be changed without the written approval of the Owner.

.1 All work shall be performed by or under the direct supervision of persons then licensed in the State of Arizona to perform these services. The seal of such individual shall be listed on the Plans, Specifications and elsewhere as required. The Architect shall be responsible for the work performed by and under the supervision of these persons.

.2 The Architect will be present, after reasonable notice, as the Owner may request, for public meetings of the Governing Board of the Owner held for the purpose of discussing the schematics, drawings, specifications, cost estimates or construction of a project.

.3 This Agreement is not intended by the parties hereto to create, nor shall it be construed to create any contractual relationship between the Architect and any third parties including the Contractors, Subcontractors or Owner's Consultants.

.4 The Architect agrees throughout in the rendering of services hereunder in accordance with professional standards prevailing in the metropolitan areas of Arizona.

.5 Within thirty (30) days after the payments provided herein have been made to the Architect, the Architect shall state in writing to the Owner that all fees due engineers and/or other consultants have been paid.

6 Basic Services - Schematic Design Phase

.1 The Architect shall consult with the Owner to obtain the Owner's requirements for a project and shall review his understanding of such requirements with the Owner or its designated representatives.

.2 The Architect shall prepare Schematic Design Studies consisting of Drawings, including individual floor plans, mechanical concepts, appropriate elevations and sections, and other documents, including a list of materials, illustrating the scale and relationship of Project components for approval by the Owner.

.3 The Architect shall submit to the Owner a "Statement of Probable Construction Costs" based on current area, volume or other unit costs that take into account the site conditions, building layout and construction materials contemplated for this Project in such detail as to enable the Owner to ascertain the estimated cost of a project.

.4 The Architect will consult with members of the Owner's staff and other resource persons, as designated by the Owner and as the Owner deems necessary, for the purpose of discussing the physical requirements of a project necessary to fulfill Owner's educational objectives.

.5 For the Architects Basic Services associated with the Schematic Design Phase, the Owner shall pay the Architect the fee set forth in Paragraph 2.

7 Basic Services - Design Development Phase

.1 The Architect shall prepare from the approved Schematic Design Studies, for approval by the Owner, the Design Development Documents consisting of Drawings, Preliminary Specifications and other documents to fix and describe the size and character of the entire Project as to architectural, landscape, civil, structural, mechanical and electrical elements of a project, materials and such other essential elements as may be appropriate. The Design Development Phase will graphically show the appearance of a project by means of plans, elevations, sections and specifications as needed to depict adequately a project. These will show and describe finished architectural treatments and materials and will depict the elements in a project with sizes, square feet and heights. Schematic structural information will be included.

.2 The Architect shall advise the Owner of any adjustments to the previous Statement of Probable Construction Costs based on changes in current area volume or other unit costs that take into account the site conditions, building layout and construction materials contemplated for a project.

.3 For the Architect's Basic Services associated with the Design Development Phase, the Owner shall pay to the Architect the fee set forth in Paragraph 2. The documents required to be produced by the Architect during the Design Development Phase shall be submitted to the Owner for approval based on individual project schedules submitted.

.4 Approval of the Schematic Design Studies, Design Development Documents, other Plans, Specifications and Contract Documents by the Owner for this Paragraph of this Agreement, and every other Paragraph where the Owner is required to approve plans, unless stated differently by the Owner in writing, is for conformance with the educational design concept of a project. This approval does not constitute nor does it imply approval of or attest to the accuracy, suitability or completeness of the architectural design, drawings, dimensions, details, proper selection of materials or compliance with applicable codes or ordinances. The Architect agrees that such accuracy, suitability and completeness are his sole responsibility, however he shall not be responsible for the acts or omissions of approving authorities or errors in standards, references or information provided by the Owner on which the Architect is reasonably entitled to rely.

.5 In designing a project and preparing the plans, drawings and specifications, the Architect will comply with all requirements of Chapter 4, Title 34 A.R.S. relating to structure of buildings, as well as the Americans with Disabilities Act of 2008 (42 U.S.C. 12101, et seq.), the Arizonans with Disabilities Act (A.R.S. § 41-1492, et seq.) and the standards, regulations and guidelines adopted thereunder.

.6 Architect shall not, to the best of his/her knowledge, specify or cause to be incorporated into the design of a project any asbestos-containing building material including surfacing asbestos containing materials, thermal system installation asbestos-containing materials or miscellaneous asbestos-containing materials found in or on interior structural members or other parts of the building. Asbestos containing materials as used herein shall mean any material or product which contains more than zero percent (0%) asbestos. Without limiting the generality of the foregoing, the Architect shall not be responsible for hazardous waste or materials that exist on a project site or that may be found or deposited on the site in the future so long as the existence of such waste or materials is not due to the fault of the Architect.

.7 The Architect shall specifically prohibit the use of lead in a project, including, without limitation, the potable water system water piping, solder, valves, fittings and plumbing fixtures. The Architect shall specify the use of lead-free solder. The completed system shall meet all U.S. Environmental Protection Agency and Arizona Department of Environmental Quality standards and regulations for drinking water quality.

.8 The Architect shall coordinate as appropriate Design Development phase activities/tasks with the Construction Manager.

8 Basic Services - Construction Documents Phase

.1 The Architect shall prepare from the approved Design Development Documents, for approval by the Owner, Construction Drawings and Specifications setting forth in detail the requirements for the construction of the entire Project, including the architectural, landscape, civil, structural, mechanical and electrical phases of a project, and including the necessary bidding information. These documents are the "Construction Documents." All addenda shall be submitted to and approved by the Owner prior to the time of opening bids.

.2 The Architect shall advise the Owner of any adjustments to previous Statements of Probable Construction Costs resulting from changes in requirements, general market conditions or any other factors at any time during any phase of a project.

.3 The Architect will provide a schedule showing milestones and significant tasks during the design phases of the project. The Construction Manager will provide a schedule for bidding, contract negotiations and construction phases. The Architect and Construction Manager shall cooperate in adjusting their schedules to meet the Owner's end date of the Project. The Architect shall provide in the Specifications that the Contractor is to develop and submit a Material Delivery Schedule as part of the Construction Progress Schedule described in Paragraph 10.4 of this Agreement.

.4 The Architect shall assist the Owner in filing for the approval of governmental authorities having jurisdiction over a project, including, without limitation, the Arizona Department of Environmental Quality and the Arizona State Fire Marshal. The Construction Documents must be approved prior to bidding by authorities having jurisdiction unless otherwise directed by the Owner in writing.

.5 The Architect shall incorporate in his design solutions for a project all utility connections and on-site facilities that are required to supply a project with utilities and means of ingress and egress and shall ascertain and comply with applicable rules and requirements of the utilities serving a project.

.6 The Architect agrees to use the following special rules in preparing the Specifications unless the Owner gives its written permission to the Architect to deviate from them:

a. The Architect shall not use bidding, contracting or purchasing specifications proprietary to one supplier, distributor, manufacturer or contractor unless the specification includes all of the following:

- i. A statement of the reason or reasons why no other specification is practicable,
- ii. A description of the essential characteristics of the specified product, and

iii. A statement indicating the intent to consider an alternative product which has the desired essential characteristics if such an alternative product is identified.

b. In the preparation of the Specifications, the Architect shall prepare "other than proprietary specifications" and "proprietary specifications" in a manner substantially similar to the following examples:

- .1 An example of an "other than proprietary specification" is as follows:

The products of the ABC Corporation have been considered in the development of the Drawings and Specifications. Other manufacturers offering products which comply with the requirements contained herein shall include, but not be limited to, the following:

XYZ Corporation
ZZZ Manufacturing
Co.Ajax Steel
Building Co.

.2 An example of a "proprietary specification" is as follows:

Substitutions:

Approved Manufacturers:

Butts - _____, _____, _____ Locks - * _____ (no substitute)

Panic Devices - _____, _____, _____ Closures - * _____ (no substitute)

Push/Pulls/Stops - _____, _____, _____ Weatherstrip - _____,

*Items listed as "no substitute" have been requested by the Owner for the reason: The specified product is thought to be the only product compatible with existing systems (or such other reason or reasons given by the Owner or the Architect). The essential characteristic(s) of the product(s) listed as "no substitute" is (are):

_____ consider
any alternative product which has the desired essential characteristics of an item listed as "no substitute" if such an alternative product is identified in the manner prescribed in the Instructions to Bidders.

c. If any alternative product is identified and approval for its use is requested, the Architect shall determine whether the proposed alternative product is acceptable. If an alternative product acceptable to the Architect is identified at least 10 days before the deadline for receiving bids on a project has passed, the Owner, with the Architect's assistance, shall cause to be published a notice of the modification of the bidding documents in the same manner as the publication of the original notice inviting bids on a project. The Owner shall allow six (6) days from the date of the last publication of the modification of the bidding documents for bidding in competition with the originally specified product.

.7 The Construction Documents shall conform with the State Fire Code adopted by the State Fire Marshal and the applicable fire prevention codes of Pima County, Arizona, or the local authority within whose jurisdictional area a project is located. Additionally, the Construction Documents shall conform with all applicable building, plumbing, electrical, mechanical, ADA, local, state, and federal codes. If any of the codes described in this subparagraph are revised during the term of this Agreement, the Architect shall revise, without additional charge to the Owner, the Construction Documents to conform to those revisions in preparation of the construction drawings for the building system or component affected by such revision

has not commenced. Any revision resulting from such code changes occurring after preparation of the construction drawings shall be an Additional Service. The Owner is exempt from the application of local building codes pursuant to A.R.S. § 34-462. The Owner is not exempt from the application of the Fire Marshall codes.

9 Basic Services - Bidding Phase (Construction Manager at Risk delivery method)

.1 After the Owner approves the Construction Documents and the latest Statement of Probable Construction Costs, the Architect shall assist the Owner in obtaining bids and in awarding and incorporating all specific information concerning this Project into the Contract and General Conditions between the Owner and the Construction Manager and any ancillary documents.

.2 The Construction Manager shall consult with the Owner and shall utilize Owner's Notice Inviting Sealed Bids, Instructions to Bidders, Proposal, List of Subcontractors and Material Vendors, Performance Bond, Payment Bond, Notice of Award/Notice to Proceed and Receipt of Assignment, and Contract and General Conditions in documents used for bidding. The Architect agrees to use the forms of the documents listed above that are in use by the Owner at the time a project is bid.

.3 For the Architect's Basic Services associated with the Bidding Phase, the Owner shall pay to the Architect the fee set forth in Paragraph 2.

10 Basic Services - Construction Administration Phase

.1 Wherever the term "Contract" or "Contract and General Conditions" is used in this Agreement, it shall mean the Contract and General Conditions between the Owner and the Contractor and all of the Contract Documents incorporated therein. The term "Contractor" as used herein shall mean the party entering into the Contract with the Owner for the construction of a project. The term "Work" used herein shall have the same meaning as used in the Contract and includes the furnishing by the Contractor of all labor necessary to produce the construction required by the Contract Documents and the furnishing and installing of all materials and equipment incorporated, or to be incorporated into a project.

.2 The Construction Administration Phase will commence with the award of the Contract and will terminate when final payment is made by the Owner to the Contractor, except that in addition, the Architect shall perform the obligations provided for herein and in the Contract that pertain to the two-year warranty period.

.3 The Architect shall deliver to the Contractor, the Owner's Notice to Proceed on a form to be provided by the Owner and completed by the Architect directing Contractor to commence work on a project. The date of commencement contained in the notice shall be the official starting date upon which the completion time shall be based.

.4 Within five (5) working days after the award of the Contract, the Architect will request from the Contractor a Construction Progress Schedule as required by the Contract which shall contain the Material Delivery Schedule. The Contractor's Material Delivery Schedule shall include identification of all material critical to the scheduling of a project or for which long lead time in procurement is anticipated, and projected dates for submittal, order and delivery of such material. If the Contractor fails to provide such schedules prior to the first application for progress payment, the Architect shall report in writing such failure to the Owner within five (5) additional days. The Architect shall review these Schedules using his best professional judgment as an Architect and shall notify the Owner and the Contractor promptly in writing of any anticipated delays in construction or material deliveries evident from the schedules submitted by the Contractor or any other unrealistic situations disclosed thereon that may affect timely completion of a project. Control of and responsibility for the construction schedule shall remain the

responsibility of the Contractor.

.5 The Architect shall perform those duties expressly required of him as set forth herein and in the Contract and General Conditions. It is recognized by the Architect and the Owner that the provisions of the Contract may change from time to time and that the parties agree to use the Contract Document that is in use by the Owner at the time the construction contract is awarded, so long as the Architect is given the opportunity to review and approve any proposed changes. The Architect's approval shall not unreasonably be withheld. Once the Contract is fully executed by the Owner and the Contractor, the extent of the Architect's duties and responsibilities and the limitations of his authority as assigned thereunder shall not be modified without his written consent and that of the Owner.

.6 The Architect shall furnish pdf files of all required Contract Documents for bidding to the Construction Manager. The Construction Manager is responsible for making copies of the Contract Documents reasonably adequate for construction of a project.

.7 The Architect shall be a representative of the Owner during the Construction Administration Phase, shall advise and consult with the Owner and shall attempt to obtain performance of the terms of the Contract on behalf of the Owner. If the Contractor fails or refuses to comply with the terms of the Contract or the Architect's instructions, the Architect shall promptly notify the Owner of such failure or refusal and shall cooperate with the Owner to obtain compliance with the Contract. The Owner's instructions to the Contractor shall be issued through the Architect, except where the Owner deems it necessary to communicate directly with the Contractor. The Architect shall be promptly advised of or provided copies of all such direct communication. The Architect shall have authority to act on behalf of the Owner to the extent provided in the Contract.

.8 The Architect shall at all times have access to the Work wherever it is in preparation or progress. The Architect shall hold weekly meetings during construction of a project with the Contractor and appropriate Subcontractors. The Owner shall be notified in advance of the time and location of each meeting. A summary of each meeting shall be incorporated into the reports required by subparagraph 10.10.

.9 The Architect shall observe the construction of a project. The Architect shall make periodic visits to the site to observe the progress and quality of the Work and to determine if the Work is proceeding in accordance with the Contract Documents. These visits shall be of the frequency necessary for the Architect and the appropriate civil, mechanical, electrical, structural and other engineers or consultants to observe the progress of the Work and observe any testing or inspection required to determine whether or not the Work is in compliance with the Contract but in no event shall there be less than 1 visit per week by the Architect and visits by the Architect's consultants of the frequency necessary to observe the Work during the construction phase. The Architect shall promptly report any and all defects or deficiencies in the Work or other variations from the requirements of the Contract Documents observed by the Architect to the Contractor and to the Owner. The Architect shall direct the Contractor to remedy all such defects, deficiencies or other variations from the Contract Documents. The Architect shall not be responsible for the Contractor's ways, methods, techniques, procedures, or the enforcement of safety requirements. Neither observation by the Architect nor tests, observations or approvals by others shall relieve the Contractor from its obligation to perform the Work in accordance with the Contract Documents. The Architect shall not be responsible for the acts or omissions of the Contractor, its subcontractors or their agents or employees.

.10 The Architect will provide the Owner with written Field Inspection Reports with detailed information covering the same categories covered in the construction Progress Schedule. These reports shall be prepared by the Architect each week while construction is in progress and transmitted to the Owner within twenty-four (24) hours of preparation. These reports shall contain a statement by the Architect to the Owner that the Architect has observed the Work, and that to the best of the Architect's knowledge, information and belief, the work has been performed in a workmanlike manner in accordance with the Drawings and Specifications, except for those items of the Work specifically listed on the report as not having been performed in said manner.

.11 Based on his/her observations at the site and on the Contractor's Application for Payment, the

Architect shall determine the amount owing to the Contractor and shall issue a Certificate for Payment in such amount. The issuance of a Certificate for Payment shall constitute a representation by the Architect to the Owner that, based on the Architect's observations at the site as provided for above and on the data comprising the Application for Payment, (a) the Work has progressed to the point indicated in the Application for Payment; (b) to the best of the Architect's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents; and (c) the Contractor is entitled to payment in the amount certified. When the Contractor has made proper application therefor, the Architect shall issue a Certificate of Payment to the Owner within five (5) days, or state in writing his reasons for withholding the Certificate. By issuing a Certificate for Payment, the Architect shall not thereby be deemed to represent that he has made an inquiry to ascertain how or for what purpose the Contractor has used any payment previously made by the Owner. The provisions of this subparagraph are not intended to benefit the Contractor.

.12 The Architect may decline to approve an Application for Payment and may withhold his Certificate for Payment in whole or in part if in his opinion he is unable to make representations to the Owner as provided in this Agreement. The Architect may decline to approve an Application for Payment or, because of subsequently discovered evidence or subsequent observations of the Work, nullify the whole or any part of any Certificate for Payment previously issued and unpaid, to such extent as may be necessary in his opinion to protect the Owner from loss because of:

- .1 Defective Work not remedied, or
- .2 Claims filed or reasonable evidence indicating probable filing of claims, or
- .3 Failure of the Contractor to make payments to Subcontractors for labor, materials or equipment, or
- .4 Reasonable doubt that the Work can be completed for the unpaid balance of the Contract Sum, or
- .5 Damage to a Subcontractor or to another contractor, or
- .6 Reasonable indication that the Work will not be completed within the Contract Time, or
- .7 Unsatisfactory prosecution of the Work by the Contractor.

When these grounds for non-certification are eliminated to the satisfaction of the Owner and the Architect (or in the case of 10.12.4, when the Owner is satisfied that the Contractor will complete a project at the agreed-upon price), payment shall be made for amounts withheld. The Architect may, at his discretion, furnish to any Subcontractor information regarding percentages of completion certified to the Owner on account of Work done by such Subcontractor.

.13 If the Contract Documents or the Specifications or the laws, ordinances or regulations of any public authority require any Work to be specially tested or approved, or if the Architect deems such testing or approval necessary, he shall make inspections and order or advise the Owner of the need for tests of the Work and materials after notice to the Contractor of his readiness to inspect and test. Inspection and observation by the Architect of testing shall be made promptly and, where practicable, at the source of supply. The Architect shall have the authority to require special inspection or testing of the Work whenever in the Architect's opinion it is necessary or advisable to achieve the intent of the Contract Documents. The Owner shall pay all costs of testing not required to be paid by the Contractor.

.14 The Architect shall have authority to reject Work which does not conform to the provisions of the Contract. The Architect shall promptly notify the Owner whenever in the Architect's opinion it is advisable to stop the Work in order to achieve proper performance of the Contract.

.15 The Architect shall review and approve or take other appropriate action upon shop drawings, product data, samples and other submissions of the Contractor for conformance with the design concept of a project and with the requirements of the Contract Documents. Action on all such submissions shall be taken so as not to delay the progress of the Work, but in any event such action shall occur within fourteen (14) calendar days after the Architect's receipt of the submission. The Architect shall, upon written request of the Owner, submit to the Owner copies of shop drawings, product data, samples and other submissions for the Owner's review and approval. The Architect shall not be required to review Shop Drawings, Product Data, Samples or other submissions of the Contractor not required by the Contract Documents or requested by the Architect.

.16 The Architect shall furnish to the Contractor in writing, by means of drawings or otherwise, all additional instructions necessary for the proper execution of the Work. All such instructions or drawings shall be consistent with the requirements of the Contract Documents and shall be issued so as not to delay the progress of the Work, but in any event such instructions shall be given within seven (7) days after receipt by the Architect of the Contractor's inquiry, except where the nature of the inquiry reasonably requires additional time for response.

.17 The Architect may make minor changes in the Work not involving extra cost, delay or claim of any kind against the Owner or the Contractor or both, and not inconsistent with the Contract Documents. Each such minor change shall be ordered by the issuance of a Field Order to the Contractor, a copy of which must be delivered to the Owner within 72 hours after issuance of the Field Order. As to other-than-minor changes, except in an emergency endangering life or property, the Architect shall prepare and process no extra Work or change in the Work except by written Change Order signed by the Owner or its authorized representative in accordance with the provisions of the Contract. Any additional cost claimed by the Contractor or credit claimed by the Owner for additional Work approved or Work deleted by the Architect in a manner not specified in this Agreement or the Contract shall be borne by the Architect, unless the Owner excuses the Architect therefrom for good cause as determined by the Owner. The Owner shall designate, in writing, an Owner's representative who shall be authorized to approve extra work or changes in a project.

.18 The Architect shall determine the dates of issuance of the Certificates of Substantial Completion and Final Completion, shall receive written guarantees, waivers of liens and related documents assembled by the Contractor, and shall issue a final Certificate for Payment. Thirteen (13) months before the expiration of the two-year warranty period, as calculated from the date of the Certificate of Substantial Completion, the Architect, in the company of the Contractor and the Owner, shall make an inspection of a project and certify that to the best of the Architect's knowledge and belief based upon the inspections required herein that all defects in material and workmanship that have occurred during the warranty period as of the date of the walk through have been satisfactorily corrected.

.19 Upon completion of construction, the Architect shall provide to the Owner a complete set of "Record" Drawings prepared by the Contractor which shall include all architectural, structural, mechanical, civil and electrical changes and shall be made on digital Auto CAD format for use by the Owner.

.20 The Architect shall prepare Change Orders for the Owner's approval and execution in accordance with the Contract. No Change Order for either change in the Contract Amount or change in the Contract Time shall be effective without the express written approval of the Owner.

.21 On completion of construction, the Architect shall furnish to the Owner a statement that no asbestos-containing building material was specified as a building material in any construction document for the

building or that to the best of the Architect's knowledge, no asbestos-containing material was used in the building as a building material.

.22 For the Architect's Basic Services associated with the Construction Administration Phase, the Owner shall pay to the Architect the fees specified in Paragraph 2.

.23 If a conflict exists between the terms hereof and the terms of the Contract and General Conditions between Owner and Contractor ultimately executed for the construction of a project, the terms hereof shall have precedence with respect to the obligations of the Architect and Owner hereunder.

11 Reimbursable Expenses

.1 For reimbursable expenses approved in advance in writing by the Owner, the Owner shall pay to the Architect the actual amount expended by the Architect or the Architect's Consultants upon presentation of an itemized bill satisfactory to the Owner. The following reimbursable expenses are approved by the Owner:

(a) Expense of reproduction, including printing, photocopies and full-size plotting, of Drawings, Specifications and other documents, as agreed to in individual project fee proposals.

(b) Fees paid for securing approval of authorities having jurisdiction over a project.

(c) Expenses of long distance telephone calls, facsimile transmissions, postage and shipping.

(d) All expenses not specifically allowed in this paragraph 11 are included in the fee established in subparagraph 2.1.1 hereof.

.2 Perspective renderings, photographs or models, when requested in writing by the Owner for the Owner's use beyond the Drawings included in Basic Services.

12 Additional Services

.1 If any of the following Additional Services are authorized by the Owner, in writing, they shall be paid for by the Owner:

.1 Providing professional services occasioned by the need to replace or repair Work damaged by fire, vandalism or act of God, provided that such damage was not the fault of or occasioned by the act or neglect of the Architect.

.2 Providing professional services made necessary by the substantial failure of performance by or the termination of Owner's consultant, as defined in Paragraph 13.11, or the Contractor; or by the substantial failure of performance of the Owner unless the services are required due, in whole or in part, to negligence or substantial breach of this Agreement by the Architect in providing services required by this Agreement.

.3 Preparing to serve or serving as an expert witness for the Owner in connection with any litigation or arbitration unless the services are required due to the negligence of the Architect in providing services required by this Agreement.

.4 Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase.

.5 Making revisions in Drawings, Specifications or other documents when such revisions: 1) are inconsistent with written approvals or instructions previously given by the Owner; 2) are due to causes beyond the control and without the fault and negligence of the Architect or his consultants or agents; 3) represent a change in the scope of program requirements or 4) are occasioned by changes in applicable building codes during the course of design or construction as allowed by Paragraph 8.7 hereof.

.6 Providing services after issuance to the Owner of the final Certificate for Payment, except for services required during the warranty period as provided herein.

.7 Providing design and other similar services relating to the selection, procurement, or installation of furniture, furnishings and related equipment.

.8 Providing services to verify the accuracy of drawings or other information furnished by the Owner in the event such information is not adequate or not available from the Owner.

.9 Preparing supporting data and other services in connection with a change order if the change in the basic compensation resulting from the adjusted Contract Sum is not commensurate with the services required of the Architect.

.10 Providing any other services not otherwise included in this Agreement.

.11 Providing professional services associated with offsite facilities and hydrology studies.

.12 In accordance with the provisions of this Agreement, or if the Owner directs the Architect to perform Additional Services for which an hourly basis of compensation is applicable, charges shall be at the rates set forth in Subparagraphs 2.1.3 and 2.1.4 herein.

13 The Owner's Responsibilities

.1 The Owner shall provide to the Architect prior to the commencement of design, all information in the possession of the Owner regarding its requirements for a project.

.2 The Owner shall designate an Owner's representative authorized to act on its behalf with respect to a project. The Owner or its representative shall examine documents submitted by the Architect and shall make decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect's work.

.3 The Owner shall furnish a certified land survey of the site, indicating as applicable: grades and lines of streets and alleys; contours of the site; boundaries; rights-of-way; easements; encroachments; deed restrictions; locations, dimensions and complete data of existing buildings, other improvements and trees; and full information concerning available public and private service and utility lines and such other information as may be deemed necessary as determined by the Architect.

.4 The Owner shall furnish the services of a soils engineer, when such services are deemed necessary by the Architect, including reports, test borings, test pits, soil bearing values and other necessary operations for determining subsoil conditions as determined by the Architect.

.5 The Owner shall furnish structural, mechanical, chemical and other laboratory tests, inspections and reports as required by law or the Contract Documents unless otherwise provided herein.

.6 The services, information, surveys and reports required shall be furnished at the Owner's expense. The Architect shall be entitled to rely upon the accuracy and completeness thereof; but nothing contained herein shall excuse the Architect's failure to report to the Owner any deficiency that is discovered or should have been discovered through the Architect's ordinary diligence in using such information, services, reports and surveys.

.7 The Owner shall furnish all legal, accounting and insurance counseling services as may be necessary for a project.

.8 If the Owner observes or otherwise becomes aware of any faults or defects in a project in non-conformance with Contract Documents, it shall give prompt written notice thereof to the Architect. The Owner is under no express duty to observe the Work for the purpose of discovery of faults or defects.

.9 The Owner shall furnish information and render decisions required of it without undue delay.

.10 The Owner shall pay any fees required by any jurisdictional authority, city, town or county in which any building comprising any aspect of a project is located, in conjunction with any applicable building, plumbing, electrical, fire prevention and mechanical code adopted by the county, city or town in which a project is located, with the exception of fees charged by authorities for services provided as a convenience to the Contractor.

.11 The Owner, at its sole discretion, may employ the services of experts, specialty consultants, or a construction manager ("Owner Consultants") to review Construction Documents, submittals, and samples, to make periodic site visits and to report to the Owner any defects or deficiencies in the design or construction of a project. The Architect agrees to review any information provided by the Owner or Owner's Consultants and to respond promptly to such information. Said Owner's Consultants may be designated as the Owner's representatives. Employment of said Owner's Consultants shall not relieve the Architect from any responsibilities or obligations under this Agreement. The Architect shall not be responsible for the acts or omissions of the Owner's Consultant(s).

.12 Except as otherwise required by this Agreement, Architect shall not be required to furnish any services required to discover, test, or remove asbestos, pollutants or other potentially hazardous materials during the course of a project. If the Architect discovers or is made aware of the existence of such materials, he shall notify promptly the Owner.

14 Construction Cost

.1 The term "Construction Cost," shall be determined as follows:

.1 For work for which bids are not received: the Construction Cost shall be the detailed Cost Estimate, provided it is within the Allocated Amount for construction specified above.

.2 For work for which bids are received but the work is not performed: the Construction Cost shall be the lowest bona fide bid for base bid and Owner-approved alternates received from a qualified bidder for any or all such work, provided it is within the limits of the Allocated Amount.

.3 For completed construction: the Construction Cost shall be the amount of the successful construction bid, after adding or subtracting, as the case may be, the amount of any Change Order or Orders approved in writing by the Owner.

.2 Construction Cost does not include the fees of the Architect and the consultants, the cost of the land, rights-of-way, furnishings or equipment purchased by the Owner, or other costs as provided above which are the responsibility of the Owner.

.3 The Architect, after consultation and in cooperation with the Owner, shall determine what materials, equipment, component systems and types of construction are to be included in the Contract, and shall make reasonable adjustments in the scope of a project to bring its cost within the Allocated Amount. Any reduction in quality or craftsmanship resulting from any adjustment so made shall be communicated in writing to the Owner with a statement of the cost benefit to the Owner to be derived therefrom and an explanation of the reduced quality or craftsmanship. The Architect may also include in the Contract an alter-nate or alternates for the purpose of adjusting the Construction Cost to the Allocated Amount.

.4 If the lowest bona fide bid, the Detailed Cost Estimate or the Statement of Probable Construction Cost exceeds the Allocated Amount (including any bidding contingency) established as a condition of this Agreement, the Owner shall:

- (a) Give written approval of an increase in such fixed limit, or
 - (b) Authorize the rebidding of a project within a reasonable time, or
 - (c) Cooperate in revising a project scope as required to reduce the Probable Construction Cost,
- or
- (d) Abandon a project with no further obligation to the Architect under this Agreement, except to pay compensation for services rendered to the time of abandonment.

.5 The Architect, without additional charge, shall, if the Owner desires, modify the Drawings and Specifications as necessary to bring the Construction Cost within the Allocated Amount. Providing of this service and rebidding of a project shall be the limit of the Architect's responsibility in this regard and, having done so, the Architect shall be entitled to his fee based on the rebid or rebids, as required, in accordance with this Agreement.

.6 Statements of Probable Construction Cost and Detail Cost Estimates prepared by the Architect at the schematic design phase represent his best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has any control over the cost of labor, materials or equipment, the Contractor's methods of determining bid prices, or competitive bidding or market conditions. Accordingly, the Architect cannot and does not guarantee that bids will not vary from any Statement of Probable Construction Cost or other cost estimates prepared by him.

15 Payment to the Architect

.1 Subject to the other provisions of this Agreement concerning payment to the Architect, payments to the Architect on account of his fee shall be made as follows:

.1 For the Architect's Basic Services associated with the schematic Design, Design Development, Construction Documents, Bidding and Construction Phases, payments will be made in the

amounts stated in Paragraph 2 hereof. These phases may include, architectural, cost estimating, landscape, structural, mechanical, civil and electrical systems.

.2 Payment for the Architect's Basic Services as defined herein shall be made monthly by the Owner in proportion to the service performed. Payment for the Warranty Phase services shall be made after the performance of service required under Paragraph 10.18.

.3 If a satisfactory proposal is not received for construction of a project (completely finished in accordance with the accepted Plans and Specifications) then, at no extra cost to the Owner, the Architect and the Owner shall, if the Owner desires, revise the scope of a project as necessary to obtain a satisfactory proposal, as provided in Paragraph 14.5 herein.

.2 If the proposed Project is abandoned or suspended, in whole or in part, for a period of more than one hundred eighty (180) days through no fault of the Architect, the Architect shall be paid the amount provided for in this Agreement for services performed before receipt of written notice from the Owner of such suspension or abandonment, together with reimbursable expenses then due that have been previously approved by the Owner, but in no event shall said compensation exceed the limits established by Title 34 of the Arizona Revised Statutes except for reimbursable expenses and additional service fees, which limit the parties hereto agree to as a matter of contract.

.3 Payments for approved Additional Services and Reimbursable Expenses shall be made monthly upon presentation of the Architect's Statement of Services Rendered. All payments due hereunder shall be considered delinquent if not made within thirty (30) days after presentation. Delinquent payments shall bear interest at the then effective legal rate on judgments in Arizona.

.4 Upon final payment of the Architect's Fee, the Owner shall be in receipt of a certificate from the Architect that all fees due engineers and other consultants have been paid or will be paid within thirty (30) days.

16 Architect's Insurance

The Architect, at Architect's own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed to do business in the State of Arizona with policies and forms satisfactory to the Owner and possessing a current A.M. Best, Inc. Rating of B++6.

All insurance required herein shall be maintained in full force and effect until all work required to be performed under the terms of the Contract is satisfactorily completed and formally accepted; failure to do so may, at the sole direction of the Owner, constitute a material breach of this Contract.

The Architect's insurance shall be primary insurance, and any insurance or self-insurance maintained by the Owner shall not contribute to it.

Any failure to comply with the claim reporting provisions of the policies or any breach of an insurance policy warranty shall not affect coverage afforded under the policy to protect the Owner.

The policies, except Workers' Compensation and Professional Liability, shall contain a waiver of transfer rights of recovery (subrogation) against the Owner, its agents, representatives, directors, officers, and employees for any claims arising out of the Architect's work or service.

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Owner under such policies. The Architect shall be solely responsible for deductible and/or self-insured retention and the Owner, at its option, may require the Architect to secure the payment of such deductible or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The Owner reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The Owner shall not be obligated, however, to review same or to advise Architect of any deficiencies in such policies and endorsements, and such receipt shall not relieve Architect from, or be deemed a waiver of the Owner's right to insist on, strict fulfillment of Architect's obligations under this Contract.

The insurance policies, except Workers' Compensation and Professional Liability, required by this Contract shall name the Owner, its agents, representatives, officers, directors, officials, and employees as Additional Insureds.

.1 Required

Coverage General Liability:

Architect shall maintain Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence with a \$2,000,000 Products and Completed Operations Aggregate and \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products/completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract.

Such policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision that would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc's, Additional Insured, Form B, CG20101185, and shall include coverage for Architect's operations and products and completed operations.

Automotive Liability:

Architect shall maintain Commercial/Business Automotive Liability insurance with a combined single limit for bodily injury and property damage of not less than \$1,000,000 each occurrence with respect to the Architect's owned, hired, and non-owned vehicles assigned to or used in performance of the Architect's work. Coverage will be at least as broad as coverage code 1, "any auto", (Insurance Service Office, Inc. Policy Form CA 00011293, or any replacements thereof). Such insurance shall include coverage for loading and off loading hazards. If hazardous substances, materials or wastes are to be transported, MCS 90 endorsement shall be included and \$5,000,000 per accident limits for bodily injury and property damage shall apply.

Professional Liability:

The Architect shall carry Professional Liability insurance with a combined single limit for bodily injury and property damages of not less than \$2,000,000. Coverage which meets or exceeds the minimum requirements shall be maintained in force and effect until completion of the Warranty Phase.

Workers' Compensation:

This Architect shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Architect's employees engaged in the performance of the work; and, Employer's Liability insurance of not less than \$2,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the Architect will require the Subcontractor to provide Workers' Compensation and Employer's Liability to at least the same extent as required of the Architect.

.2 Certificates of Insurance

Prior to commencing Services under this Contract, Architect shall furnish the Owner with Certificates of Insurance, or formal endorsements as required by the Contract, issued by Architect's insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect.

In the event any insurance policy(ies) required by this contract is(are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the Architect's work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the contract, a renewal certificate must be sent to the Owner thirty (30) days prior to the expiration date.

All Certificates of Insurance required by this Contract shall be identified with a bid serial number and title.

.3 Cancellation and Expiration Notice

Insurance evidenced by these certificates shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the Owner.

17 Indemnification

.1 The Owner and Architect shall indemnify and save harmless the Other's, agents, representatives, officers, directors, officials and employees from and against all claims, suits, actions, liability, loss, damage and expense (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or shown to have resulted from the acts, errors, mistakes, omissions, work or services of the Other's, employees, agents, or any tier of subcontractors in the performance of this Contract.

Architect's duty to defend, hold harmless and indemnify the Owner, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property including loss of use resulting therefrom, caused by any acts, errors, mistakes, omissions, work or services in the performance of this Contract including any employee of the Architect or any tier of subcontractor or any other person for whose acts, errors, mistakes, omissions, work or services the Architect be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

18 The Architect's Accounting Records

.1 Records of the Architect and its Consultants pertaining to a project shall be kept on a generally-recognized accounting basis and shall be available to the Owner or its authorized representative during normal business hours. Such records shall be maintained for at least three (3) years after final payment to the Architect is made.

19 Termination of Agreement

.1 This Agreement may be terminated by either party upon seven (7) days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the other. Such notice shall identify the event or circumstance of non-performance and the party receiving such notice shall have 7 days to cure. This provision shall not be construed to prevent the non-defaulting party from recovering damages occasioned by said default or pursuing any other remedy available to it at law or in equity.

.2 This Agreement may be terminated by the Owner upon seven (7) days written notice should funds not be available to continue a project or should the Owner determine in the exercise of its sole discretion, such termination to be in the best interest of the Owner. In the event of such termination, the Architect shall be entitled to payment for his services rendered as of the date of termination as his sole remedy against the Owner.

20 Ownership of Documents

.1 The Owner and the Architect agree that all notes, designs, Drawings, Specifications and other technical data produced in the performance of this Agreement are the property of the Architect as instruments of professional service and shall remain in the physical possession and control of the Architect. The Owner and the Architect agree that neither party shall make any use of said work product without the written permission of the other party. Nothing in this subparagraph shall be construed to prevent either party from withholding its consent to further use of the work product until reasonable compensation has been agreed upon. Nothing herein shall obligate the Owner to pay compensation to the Architect for use of said work product in connection with the repair, reconstruction or construction of additions to a project so long as Owner releases Architect from all liability for such reuse.

.2 The Architect agrees that duly-authorized representatives of the Owner shall have access, at reasonable times, to inspect and make copies of all designs, Drawings, Specifications, Shop Drawings and other submittals by the Contractor or other technical data pertaining to the Work to be performed under this Agreement.

.3 The Architect agrees that the Owner may retain and use maintenance manuals, Record Drawings, copies of Shop Drawings and other technical data as provided in a contract.

21 Successors and Assigns

.1 The Owner and the Architect each binds himself, his partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of each party with respect to all covenants of this Agreement. Neither the Owner nor the Architect shall assign, sublet or transfer his interest in this Agreement without the prior written consent of the other.

22 **Extent of Agreement**

.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations and agreements, both written and oral. This Agreement may be amended only by written instrument signed by both the Owner and the Architect and executed with the same formality as this Agreement.

23 **Applicable Law**

.1 Unless otherwise specified, this Agreement shall be governed by the laws of the State of Arizona and the county and municipality, if any, in which a project is located.

24 **Dispute Resolution**

.1 This Agreement shall be subject to and interpreted under the laws of the State of Arizona. Any controversy or claim arising out of or relating to this Agreement, its enforcement or interpretation, or because of an alleged breach, default, or misrepresentation in connection with any of its provisions, shall be submitted to arbitration, to be held in Pima County, Arizona, in accordance with the Uniform Arbitration Act,

A.R.S. § 12-1501 et seq. The arbitrator shall be selected by mutual agreement of the parties; if none, then by striking from a list provided by an organization such as the American Arbitration Association. In the event either party institutes arbitration under this Agreement, the party prevailing in any such arbitration shall be entitled, in addition to all other relief, to actual attorneys' fees relating to such arbitration. The non-prevailing party shall be responsible for all costs of the arbitration, including but not limited to, the arbitration fees, court reporter fees, etc. The decision of the arbitrator shall be final and binding upon the parties.

25 **Attorneys' Fees**

.1 In the event any of the parties to this Agreement take legal action or other steps to enforce the terms of the Agreement, the prevailing party or parties shall be entitled to recover their expenditures including but not limited to actual attorneys' fees, costs of tests, inspections and reports by experts, costs of exhibit preparation, expert witness fees and court costs from the party or parties at fault.

THE OWNER AND THE ARCHITECT hereby agree to the full performance of the covenants contained herein.

IN WITNESS WHEREOF, the parties' duly authorized representatives have signed this Agreement on the dates indicated below:

For **COLLEGE PIMA COUNTY COMMUNITY COLLEGE DISTRICT**:

By: _____

Print Name: _____

Title: _____ Date: _____

For **ARCHITECT** [xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx]:

By: _____

Print Name: _____

Title: _____ Date: _____

ATTACHMENTS:

- Attachment A – General Terms and Conditions
- Attachment B – Federal Acquisition Regulations
- Attachment C - Compensation Schedule

APPENDICES:

- Appendix 1: Project Executive Summary.
- Appendix 2: Facility Guidelines and Specifications Standards
- Appendix 3: Administrative Procedure: AP2.06.04 Capital Project Management

ATTACHEMENT A to AGREEMENT FOR SERVICES**GENERAL TERMS AND CONDITIONS**

1. **Contractor's Performance of Services.** Contractor shall provide all tools, equipment, and supplies Contractor determines to be necessary to perform the Services.
2. **Supervision.** Contractor is using its own knowledge, skill, and technical know-how in the performance of the Services and is not being supervised by College.
3. **Government Fees; Licenses.** Contractor shall be solely responsible for complying with all laws and regulations regarding taxes, permits, and fees as they may apply to any matter under this Agreement. Contractor shall, at its own cost, obtain and maintain in full force and effect during the entire Term all business registrations or licenses required to perform the Services. Upon request by College, Contractor shall demonstrate that it is duly licensed by whatever regulatory body may so require during the performance of the Agreement.
4. **Work to Be Performed by Others.** College reserves the right to perform any and all services in-house or to utilize the services of other firms on unrelated projects.
5. **Warranties.**
 - 5.1. Contractor warrants that the Services will be performed in a professional and workmanlike manner and in conformity with industry standards by persons reasonably suited by skill, training, and experience for the type of services they are assigned to perform.
 - 5.2. Contractor further warrants that (i) it owns or has sufficient rights in all Deliverables, and no Deliverables will infringe on or violate any intellectual property rights of any third parties; (ii) no code or software developed or delivered by Contractor under this Agreement will contain any viruses, worms, or other disabling devices or code; and (iii) in addition to any implied warranties, all Deliverables will conform to the specifications and descriptions created therefor.
 - 5.3. To the extent applicable to the subject matter of this Agreement, Contractor warrants that the Services, Deliverables, all electronic and information technology to be provided under this Agreement comply with the accessibility requirements of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §12101 et seq.) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794d), and maintain Web Content Accessibility Standards 2.0 at Level AA.
6. **Scope of Relationship.** Contractor is an independent contractor. Neither Contractor nor any of Contractor's employees, agents, or subcontractors, or their employees or subcontractors (collectively, with Contractor, "**Contractor Parties**"), shall be deemed employees, agents, partners, or joint venturers of College, and nothing in this Agreement will be construed to authorize either party to act as agent for the other.
7. **Intellectual Property.**
 - 7.1. **College's Intellectual Property** All intellectual property that Contractor may make, conceive, discover, develop, or create, either solely or jointly with any other person or persons including College, pursuant to or in connection with the Services, including all intermediate and partial versions ("**Contract IP**"), will be owned by College, and where applicable, all copyrightable Contract IP will be considered "Work Made for Hire" under the U.S. Copyright Act, 17 U.S.C. §101 et seq. To the extent that any Contract IP is not, by operation of law, agreement or otherwise considered work made for hire for College (or if ownership of all rights therein do not otherwise vest exclusively in College), Contractor hereby irrevocably assigns, without further consideration, to College, all rights, title, and interest to all Contract IP. For purposes of this Agreement, "**Intellectual Property**" or "**IP**" means all forms of legally protectable intellectual property, including copyrights, trademarks, inventions, patent applications, patents and mask works, drawings and/or blueprints.
 - 7.2. **Contractor's Intellectual Property.** Contractor will retain ownership of its pre-existing Intellectual Property, including any of its pre-existing Intellectual Property that may be incorporated into the Contract IP, provided that Contractor informs College in writing before incorporating any pre-existing Intellectual Property into any Contract IP. Contractor hereby grants to College a perpetual, irrevocable, royalty-free, worldwide right and license (with the right to sublicense), to freely use, make, have made, reproduce, disseminate, display, perform, and create

derivative works based on such pre-existing Intellectual Property as may be incorporated into the Contract IP or otherwise provided to College in the performance of the Services.

7.3. College Data As between the parties, College will own, or retain all of its rights in, all data and information that College provides to Contractor, as well as all data managed by Contractor on behalf of College, including all output, reports, analyses, and other materials relating to or generated by the Services, even if generated by Contractor, as well as all data obtained or extracted through College's or Contractor's use of the Services (collectively, "**College Data**"). The College Data also includes all data and information provided directly to Contractor by College students and employees, and includes personal data, metadata, and user content. The College Data will be College's Intellectual Property and Contractor shall treat it as College's confidential and proprietary information. Contractor will not use, access, disclose, or license or provide to third parties any College Data, or any materials derived therefrom, except: (i) to the extent necessary to fulfill Contractor's obligations to College under this Agreement; or (ii) as authorized in writing by College. Contractor may not use any College Data, whether or not aggregated or de-identified, for product development, marketing, profiling, benchmarking, or product demonstrations, without College's prior written consent. Upon request by College, Contractor shall deliver, destroy, and/or make available to College any or all of College Data.

8. Confidentiality

- 8.1.** If, during the Term, either party is provided with access to or otherwise is exposed to confidential and proprietary information relating to the other party's business practices, strategies, and technologies, as well as the other party's confidential information, including personnel records, health and safety reports, or any other documentation of a private or confidential nature, including educational records covered by Section 9, and College Data, covered by Section 7.3 of this Agreement (collectively, "**Confidential Information**"), the party shall handle and store such Confidential Information in a secure manner so as to prevent that information from being intercepted by unauthorized persons, lost, published or otherwise disseminated. Neither party shall reproduce or otherwise use any Confidential Information except in the performance of the Services, and will not disclose any Confidential Information in any form to any third party, either during or after the Term, except with the other party's prior written consent.
- 8.2.** Notwithstanding the preceding paragraph, neither party will have obligation to maintain as confidential the other party's Confidential Information that the party can show: (i) was already lawfully in the possession of or known by the party before receipt; (ii) is or becomes generally known in the industry through no violation of this Agreement or any other agreement; (iii) is lawfully received by the party from a third party without restriction on disclosure or use; (iv) is required to be disclosed by court order following notice to the other party sufficient to allow that party to contest such order; or (v) is approved in writing by the party for release or other use.
- 8.3.** Upon expiration or termination of this Agreement, the parties shall cease using all originals and all copies of Confidential Information, in all forms and media, in the party's possession or under the party's control, and shall either (i) promptly return such Confidential Information to the other party; or (ii) where required and/or authorized by law, maintain in a confidential and secure manner until the information is properly destroyed at the end of any applicable retention period.
- 9. Educational Records; FERPA.** College is subject to the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and any educational records that may be provided to Contractor pursuant to this Agreement shall be used solely for the purposes of performing Services under the Agreement and shall not be disclosed except as provided by law.
- 10. Public Records.** The parties acknowledge that College is a public entity subject to the provisions of the Arizona Public Records Laws, A.R.S. §§ 39-121 et. seq. In the event that a public records request is received by College requesting records described as confidential, which College determines must be disclosed, College shall notify Contractor prior to disclosure.

11. Privacy and Security.

- 11.1.** If Contractor, or its agents, or any tier of Contractor's subcontractors in the performance of this Agreement hosts or maintains College's Confidential Information on its technology, Contractor warrants that the hosting or maintenance of that information meets applicable legal and industry security standards, including qualifying for "safe harbor" rules under applicable data breach laws.
- 11.2.** At all times during the Term, Contractor shall maintain appropriate administrative, technical and physical safeguards to protect the security and privacy of the Confidential Information in use, in motion, and at rest. These

safeguards include, but are not limited to, implementation of adequate privacy and security policies and data breach response plans that comply with industry standards and the requirements of applicable laws and regulations, as long as they meet or exceed College's information security and privacy policies and procedures. Upon request, Contractor shall provide College with copies of those policies and plans.

- 11.3.** Contractor shall maintain and enforce personnel policies that appropriately check the backgrounds of its employees who will be providing services to College. Upon request, Contractor shall provide College with copies of those policies.
- 11.4.** In the event Contractor has reason to believe that an actual or suspected security incident or any other circumstance has occurred in which College may be required to perform a risk assessment and/or provide a notification under applicable law, Contractor shall immediately, and in no event later than twenty four (24) hours, notify the College's Chief Privacy Officer and the Office of General Counsel. Any such notice shall provide a description about the Confidential Information that was accessed as Contractor has available at the time of the notice. Contractor shall keep the Office of General Counsel updated promptly as additional details about the nature of the Confidential Information become available.
- 11.5.** In the event of a breach, Contractor shall mitigate, to extent practicable, any harmful effect that is known to Contractor of a use or disclosure of Confidential Information in violation of this Agreement by Contractor or its subcontractor. Furthermore, in an event of a breach involving College's Confidential Information, Contractor shall obtain a mutually agreed upon vendor to provide at no cost to College forensic services, including, but not limited to, the collection of information in connection with a forensic and risk analysis.
- 12. Use of Names; Trademarks.** Neither party shall use the other party's trade name, trademark, service mark, logo, domain name, or any other distinctive brand feature ("**Marks**"), or the names of the party's employees in any publicity or advertising material without prior written approval by the other party. Contractor's use of any College's Marks, if and when authorized, shall comply with the College's design and drawing specifications.
- 13. Use of College Property.** While on College property, Contractor shall comply, and shall ensure that its employees, agents, and subcontractors comply, with College policies and procedures governing security and privacy, the Drug-Free Environment, Smoking, Weapons, and Anti-Harassment (including Sexual Harassment), all of which can be found [here](#). Contractor's personnel, agents, and subcontractors shall comply with all reasonable requests of College communicated to Contractor regarding personal and professional conduct, and shall otherwise conduct themselves in a businesslike manner.
- 14. Compliance Generally.** The parties shall comply with the requirements of all applicable state and federal rules, regulations, and executive orders, including the Americans with Disabilities Act (ADA), 42 U.S.C. § 12132, Immigration and Nationality Act (INA), 8 U.S.C. § 1324a, and A.R.S. § 41-4401.
- 15. Equal Opportunity; Non-Discrimination.** The parties shall comply with the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), prohibiting discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin.
- 16. Misuse of Public Funds.** Contractor warrants that, with respect to any Federal, State, or local government funds: (i) Contractor has not been terminated under section 432 of the Higher Education Act for a reason involving the acquisition, use, or expenditure of such funds; (ii) has not been administratively or judicially determined to have committed fraud or any other material violation of law involving such funds; and (iii) Contractor or its officers or employees have not been convicted of, or pled nolo contendere or guilty to, a crime involving the acquisition, use, or expenditure of such funds, or administratively or judicially determined to have committed fraud or any other material violation of law involving such funds. A breach of the foregoing warranty shall be deemed a material breach of this Agreement. In addition to the legal rights and remedies available to College under the Agreement and law, in the event of such a breach, College shall have the right to terminate this Agreement.
- 17. Federally-Funded Agreement.** If this Agreement is funded through federal contract or grant, directly or indirectly, Contractor shall comply with all applicable provisions of Attachment E.
- 18. Non-Assignment.** This Agreement is personal to Contractor. Contractor shall not assign any of the Contractor's rights or delegate any of the Contractor's obligations under this Agreement to any other person or entity without

the written permission of College. Any attempted assignment or delegation by Contractor shall be void and ineffective.

19. **Referencing of Orders.** For each order issued against this Agreement, College intends in good faith to reference the RFP used in procuring the Contractor's services for pricing, terms and conditions, delivery location, and other particulars. However, in the event College fails to do so, College's right to such terms, conditions, and particulars shall not be affected, and no liability of any kind or amount shall accrue to College.
20. **Price Adjustment for Multi-Year Contracts.** Price changes will normally only be considered at the end of one Agreement Term and the beginning of another. Price change requests shall be in writing, submitted at least sixty (60) days prior to the end of the current Term, and shall be supported by written evidence of increased costs to Contractor. College will not approve unsupported price increases that will merely increase the gross profitability of Contractor at the expense of College. Price change requests shall be a factor in the Agreement extension review process. College shall, in its sole opinion, determine whether the requested price increase or an alternate option is in the best interest of College.
21. **Right to Offset.** College shall have the right to offset against any sums due to Contractor, any expenses or costs incurred by College, or damages assessed by College concerning the Contractor's non-conforming performance or failure to perform the Services under this Agreement, or any other debt owing College.
22. **Stop Work Order.** College may at any time, by written order to Contractor, require Contractor to stop all or any part of the work called for by the Agreement ("**Stop Work Order**") for a period of up to ninety (90) days after the order is delivered to Contractor, and for any further period to which the parties may agree. Upon receipt of the Stop Work Order, Contractor shall immediately comply with its terms and take all reasonable steps to minimize the incidence of costs allocable to the work covered by the order during the period of work stoppage. If a Stop Work Order issued under this provision is canceled or the period of the order or any extension expires, Contractor shall resume work. College shall make an equitable adjustment in the delivery schedules, pricing, or both, and the Agreement shall be amended in writing accordingly.
23. **Gratuities.** College may, by written notice to Contractor, cancel this Agreement if it is discovered by College that gratuities, in the form of entertainment, gifts or other were offered or given by Contractor or any agent or representative of Contractor, to any officer or employee of College with a view toward securing an agreement or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such Agreement. In the event the Agreement is canceled by College pursuant to this provision, College shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by Contractor in providing such gratuities.
24. **Insolvency.** College shall have the right to terminate the Agreement at any time in the event Contractor files a petition in bankruptcy; or is adjudicated bankrupt; or if a petition in bankruptcy is filed against Contractor and not discharged within thirty (30) days; or if Contractor becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement pursuant to any bankruptcy law; or if a receiver is appointed for Contractor or its business.
25. **Cancellation for Conflict of Interest.** Pursuant to the provisions of A.R.S. § 38-511, College may, within three (3) years after its execution, cancel this Agreement without penalty or further obligation if any person significantly involved in negotiating, drafting, securing or obtaining this Agreement for or on behalf of College becomes an employee or agent in any capacity of any other party or a Contractor to any other party with reference to the subject matter of the Agreement while the Agreement or any extension thereof is in effect.
26. **Non-Appropriation.** Contractor acknowledges that College is a public institution and that the continuation of this Agreement from each fiscal year to the next during the Term shall be contingent upon the obligation of sufficient funding by the governing body for College. College shall notify Contractor party in writing as soon as reasonably possible after the unavailability of funding comes to its attention, but no later than sixty (60) days prior to the end of then fiscal year. This provision shall not be construed so as to permit College to terminate the Agreement in order to acquire similar goods or services from another party.

- 27. Force Majeure.** Neither party shall be held responsible for any losses resulting if the fulfillment of any terms or provisions of this Agreement are delayed or prevented by any cause not within the control of the party whose performance is interfered with, and which by the exercise of reasonable diligence, that party is unable to prevent.
- 28. No Waiver of Right by College.** No waiver by College of any breach of the provisions of this Agreement by Contractor shall in any way be construed to be a waiver of any future breach or bar the College's right to insist on strict performance of the provisions of this Agreement.
- 29. Dispute Resolution; Arbitration.** In the event of a dispute arising under this Agreement, the parties shall exhaust all applicable administrative remedies provided for under the College Administrative Provisions. Additionally, this Agreement is subject to arbitration to the extent required by A.R.S. §§ 12-133 and 12-1518, and Rule 3.9 of Pima County Superior Court Local Rules.
- 30. Severability.** If any provision of this Agreement is held to be unenforceable, then that provision will be modified to the minimum extent necessary to make it enforceable, unless that modification is not permitted by law, in which case that provision will be disregarded. If an unenforceable provision is modified or disregarded, then the rest of the Agreement will remain in effect as written.
- 31. Governing Law; Venue.** This Agreement shall be governed by and interpreted in accordance with the laws of the State of Arizona, without regard to its conflicts of law principles. Jurisdiction and venue for any dispute arising out of this Agreement shall exclusively rest in the Pima County, Arizona.

ATTACHMENT B: FEDERAL ACQUISITION REGULATIONS

As prescribed in Federal Acquisition Regulation 22.407, the following clauses are required for contracts in excess of \$2,000 for construction within the United States: Federal Acquisition regulation 52.222-6 – Davis-Bacon Act (Jul 2005)

(a) *Definition.*—“Site of the work”—

(1) Means--

- (i) The *primary site of the work*. The physical place or places where the construction called for in the contract will remain when work on it is completed; and
 - (ii) The *secondary site of the work, if any*. Any other site where a significant portion of the building or work is constructed, provided that such site is—
 - (A) Located in the United States; and
 - (B) Established specifically for the performance of the contract or project;
- (2) Except as provided in paragraph (3) of this definition, includes any fabrication plants, mobile factories, batch plants, borrow pits, job headquarters, tool yards, etc., provided—
- (i) They are dedicated exclusively, or nearly so, to performance of the contract or project; and
 - (ii) They are adjacent or virtually adjacent to the “primary site of the work” as defined in paragraph (a)(1)(i), or the “secondary site of the work” as defined in paragraph (a)(1)(ii) of this definition;
- (3) Does not include permanent home offices, branch plant establishments, fabrication plants, or tool yards of a Contractor or subcontractor whose locations and continuance in operation are determined wholly without regard to a particular Federal contract or project. In addition, fabrication plants, batch plants, borrow pits, job headquarters, yards, etc., of a commercial or material supplier which are established by a supplier of materials for the project before opening of bids and not on the Project site, are not included in the “site of the work.” Such permanent, previously established facilities are not a part of the “site of the work” even if the operations for a period of time may be dedicated exclusively or nearly so, to the performance of a contract.

(b)

- (1) All laborers and mechanics employed or working upon the site of the work will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, or as may be incorporated for a secondary site of the work, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Any wage determination incorporated for a secondary site of the work shall be effective from the first day on which work under the contract was performed at that site and shall be incorporated without any adjustment in contract price or estimated cost. Laborers employed by the construction Contractor or construction subcontractor that are transporting portions of the building or work between the secondary site of the work and the primary site of the work shall be paid in accordance with the wage determination applicable to the primary site of the work.
- (2) Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (e) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such period.
- (3) Such laborers and mechanics shall be paid not less than the appropriate wage rate and fringe benefits in the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled Apprentices and Trainees. Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer’s payroll records accurately set forth the time spent in each classification in which work is performed.

- (4) The wage determination (including any additional classifications and wage rates conformed under paragraph (c) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.
- (c)
- (1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when all the following criteria have been met:
- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination.
- (ii) The classification is utilized in the area by the construction industry.
- (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits, where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the:
- Wage and Hour Division
Employment Standards Administration
U.S. Department of Labor
Washington, DC 20210
- The Administrator or an authorized representative will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (3) In the event the Contractor, the laborers or mechanics to be employed in the classification, or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator of the Wage and Hour Division for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.
- (4) The wage rate (including fringe benefits, where appropriate) determined pursuant to subparagraphs (c)(2) and (c)(3) of this clause shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- (d) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- (e) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program; provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

[Federal Acquisition regulation 52.222-7 – Withholding of Funds \(Feb 1988\)](#)

The Contracting Officer shall, upon his or her own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages

required by the contract, the Contracting Officer may, after written notice to the Contractor, take such action as maybe necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

[Federal Acquisition regulation 52.222-8 – Payrolls and Basic Records \(Feb 1988\)](#)

- (a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made, and actual wages paid. Whenever the Secretary of Labor has found, under paragraph (d) of the clause entitled Davis-Bacon Act, that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
- (b)
- (1) The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. This information may be submitted in any form desired. Optional Form WH-347 (Federal Stock Number 029-005-00014-1) is available for this purpose and may be purchased from the
-- Superintendent of Documents
U.S. Government Printing Office
Washington, DC 20402
The Prime Contractor is responsible for the submission of copies of payrolls by all subcontractors.
- (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify --
- (i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in the Regulations, 29 CFR Part 3; and
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.
- (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph (b)(2) of this clause.
- (4) The falsification of any of the certifications in this clause may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 3729 of Title 31 of the United States Code.
- (c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or authorized representatives of the Contracting Officer or the Department of Labor. The Contractor or subcontractor shall permit the Contracting Officer or representatives of the Contracting Officer or the Department of Labor to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

Federal Acquisition regulation 52.222-9 – Apprentices and Trainees (Jul 2005)

(a) *Apprentices.*

- (1) An apprentice will be permitted to work at less than the predetermined rate for the work they performed when they are employed—
 - (i) Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship and Training, Employer, and Labor Services (OATELS) or with a State Apprenticeship Agency recognized by the OATELS; or
 - (ii) In the first 90 days of probationary employment as an apprentice in such an apprenticeship program, even though not individually registered in the program, if certified by the OATELS or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.
- (2) The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program.
- (3) Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated in paragraph (a)(1) of this clause, shall be paid not less than the applicable wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.
- (4) Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination.
- (5) Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.
- (6) In the event OATELS, or a State Apprenticeship Agency recognized by OATELS, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) *Trainees.*

- (1) Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer, and Labor Services (OATELS). The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by OATELS.
 - (2) Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed in the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate in the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate that is not registered and participating in a training plan approved by the OATELS shall be paid not less than the applicable wage rate in the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate in the wage determination for the work actually performed.
 - (3) In the event OATELS withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.
- (c) *Equal employment opportunity.* The utilization of apprentices, trainees, and journeymen under this clause shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

Federal Acquisition regulation 52.222-10 – Compliance with Copeland Act Requirements (Feb 1988)

The Contractor shall comply with the requirements of 29 CFR Part 3, which are hereby incorporated by reference in this contract.

Federal Acquisition regulation 52.222-11 – Subcontracts (Labor Standards) (Jul 2005)

- (a) *Definition.* “Construction, alteration or repair,” as used in this clause means all types of work done by laborers and mechanics employed by the construction Contractor or construction subcontractor on a particular building or work at the site thereof, including without limitation—
- (1) Altering, remodeling, installation (if appropriate) on the site of the work of items fabricated off-site;
 - (2) Painting and decorating;
 - (3) Manufacturing or furnishing of materials, articles, supplies, or equipment on the site of the building or work;
 - (4) Transportation of materials and supplies between the site of the work within the meaning of paragraphs (a)(1)(i) and (ii) of the “site of the work” as defined in the FAR clause at 52.222-6, Davis-Bacon Act of this contract, and a facility which is dedicated to the construction of the building or work and is deemed part of the site of the work within the meaning of paragraph (2) of the “site of work” definition; and
 - (5) Transportation of portions of the building or work between a secondary site where a significant portion of the building or work is constructed, which is part of the “site of the work” definition in paragraph (a)(1)(ii) of the FAR clause at 52.222-6, Davis-Bacon Act, and the physical place or places where the building or work will remain (paragraph (a)(1)(i) of the FAR clause at 52.222-6, in the “site of the work” definition).
- (b) The Contractor or subcontractor shall insert in any subcontracts for construction, alterations and repairs within the United States the clauses entitled—
- (1) Davis-Bacon Act;
 - (2) Contract Work Hours and Safety Standards Act -- Overtime Compensation (if the clause is included in this contract);
 - (3) Apprentices and Trainees;
 - (4) Payrolls and Basic Records;
 - (5) Compliance with Copeland Act Requirements;
 - (6) Withholding of Funds;
 - (7) Subcontracts (Labor Standards);
 - (8) Contract Termination – Debarment;
 - (9) Disputes Concerning Labor Standards;
 - (10) Compliance with Davis-Bacon and Related Act Regulations; and
 - (11) Certification of Eligibility.
- (c) The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor performing construction within the United States with all the contract clauses cited in paragraph (b).
- (d)
- (1) Within 14 days after award of the contract, the Contractor shall deliver to the Contracting Officer a completed Standard Form (SF) 1413, Statement and Acknowledgment, for each subcontract for construction within the United States, including the subcontractor’s signed and dated acknowledgment that the clauses set forth in paragraph (b) of this clause have been included in the subcontract.
 - (2) Within 14 days after the award of any subsequently awarded subcontract the Contractor shall deliver to the Contracting Officer an updated completed SF 1413 for such additional subcontract.
- (e) The Contractor shall insert the substance of this clause, including this paragraph (e) in all subcontracts for construction within the United States.

Federal Acquisition regulation 52.222-12 – Contract Termination -- Debarment (Feb 1988)

A breach of the contract clauses entitled Davis-Bacon Act, Contract Work Hours and Safety Standards Act -- Overtime Compensation, Apprentices and Trainees, Payrolls and Basic Records, Compliance with Copeland Act Requirements, Subcontracts (Labor Standards), Compliance with Davis-Bacon and Related Act Regulations, or Certification of Eligibility may be grounds for termination of the contract, and for debarment as a Contractor and subcontractor as provided in 29 CFR 5.12.

Federal Acquisition regulation 52.222-13 – Compliance with Davis-Bacon and Related Act Regulations (Feb 1988)

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are hereby incorporated by reference in this contract.

Federal Acquisition regulation 52.222-14 – Disputes Concerning Labor Standards (Feb 1988)

The United States Department of Labor has set forth in 29 CFR Parts 5, 6, and 7 procedures for resolving disputes concerning labor standards requirements. Such disputes shall be resolved in accordance with those procedures and not the Disputes clause of this contract. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

Federal Acquisition regulation 52.222-15 – Certification of Eligibility (Feb 1988)

- (a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- (c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

Federally-Funded Agreement. If this Agreement is funded through federal contract or grant, directly or indirectly, Contractor shall comply with all applicable provisions.

SUPPLEMENTAL CONDITIONS FOR SERVICES UNDER FEDERAL CONTRACT

College has entered into an agreement with either the U.S. Government, or another entity which has itself entered into an agreement with the U.S. Government ("Federal Contract"). That Federal Contract requires that certain federal contract provisions be made a part of any subsequent contract awarded by College related to furthering the performance or deliverables required under that Federal Contract. Accordingly, the following additional Federal Acquisition Regulations ("FAR") terms apply to any Contractor providing services to College under this Agreement. Any references below to "Subcontracts" refer to this Agreement.

1. These clauses apply regardless of amount of the Agreement:

52.222-26, Equal Opportunity (Apr 2015)

52.222-21, Prohibition of Segregated Facilities (Apr 2015)

52.222-4, Contract Work Hours and Safety Standards -Overtime Compensation (May 2014) (for subcontracts that involve the employment of laborers and mechanics)

52.225-13, Restrictions on Certain Foreign Purchases (Jun 2008)

52.203-15, Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Jun 2010) (for subcontracts funded under the Recovery Act only)

52.227-9, Refund of Royalties (Apr 1984) (for subcontracts in which the amount of royalties reported during negotiation of the subcontract exceeds \$250).

2. These clauses apply to Agreements in amount of \$3,500 or more:

52.222-54 Employment Eligibility Verification (Oct 2015)

3. These clauses apply to Agreements in amount of \$10,000 or more:

52.222-40, Notification of Employee Rights Under the National Labor Relations Act (Dec 2010)

4. These clauses apply to Agreements in amount of \$15,000 or more:

52.222-36, Equal Opportunity for Workers with Disabilities (Jul 2014)

5. These clauses apply to Agreements in amount of \$35,000 or more:

52.209-.6, Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment (Oct 2015)

6. These clauses apply to Agreements in amount of \$150,000 or more:

52.203-12, Limitation on Payments to Influence Certain Federal Transactions (Oct.2010)

52.222-35, Equal Opportunity for Veterans (Oct 2015) (38 U.S.C. 4212(a))

52.222-37, Employment Reports on Veterans (Oct 2015) (38 U.S.C. 4212)

52.222-17, Nondisplacement of Qualified Workers (May 2014)

52.227-2, Notice and Assistance Regarding Patent and Copyright Infringement

SUPPLEMENTAL CONDITIONS FOR SERVICES UNDER FEDERAL GRANT

College is either a recipient of a federal grant pursuant to an agreement with the U.S. Government, or has entered in an agreement with another entity that has itself entered into a grant agreement with the U.S. Government (“Grant”). That Grant requires that certain federal provisions be made a part of any subsequent contracts awarded by College related to furthering the performance or deliverables required under that Grant. Accordingly, the following terms provided in the Federal Regulation (2CFR, Part 200, which superseded and replaced the OMB Circulars, effective July 1, 2015) apply to any Contractor providing services to College under this Agreement.

1. Applies to all Agreements regardless of amount and services provided:
 - 1.1. **Record Keeping** – Contractor shall maintain all records related to the services performed under this Agreement for three (3) years after the completion of the performance or after the termination or expiration of the Agreement, whichever is later.
2. Applies to Agreements for amounts in excess of \$2,000 AND involving building repairs:
 - 2.1. **Copeland “Anti-Kickback” Act (40 U.S.C. 3145; 29 CFR, Part 3)** – Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. College is required to report all suspected or reported violations to the Federal awarding agency.
3. Applies to Agreements for amounts of \$25,000 or more:
 - 3.1. **Federal Debarment and Suspension (OMB at 2 C.F.R. 180)** – Contractor’s Certification (see Form attached to College RFP) is a mandatory condition to an award of this Agreement.
4. Applies to Agreements for amounts of \$100,000 or more:
 - 4.1. **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** – Contractor’s Certification (see Form attached to College RFP) is a mandatory condition to an award of this Agreement.
 - 4.2. **Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708)** – Where employment of mechanics and laborers involved, Contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours; For hours in excess of 40, the worker shall be compensated at a rate of not less than one and a half times the basic rate of pay.
5. Applies to Agreements for amounts of \$150,000 or more:
 - 5.1. **Clean Air Act (42 U.S.C. 7401-7671q)** and
 - 5.2. **Federal Water Pollution Control Act (33 U.S.C. 1251-1387)** – College will report the Contractor’s violations with these requirements to the Federal awarding agency.

ATTACHEMENT C: Compensation Schedule to AGREEMENT FOR SERVICES

(Basic Services Phase Payment Breakdown)

<<TBD Negotiated Compensation Schedule>>

ATTACHMENT D: Additional Services Fee Schedule

- .1 FOR ADDITIONAL SERVICES OF THE ARCHITECT, as described in Paragraph 12, but excluding Additional Services of consultants, compensation shall be computed per **Attachment D:** and as follows:
[TBD – Additional Services Fee](#)
[Estimate Summary](#)
- .2 FOR ADDITIONAL SERVICES OF CONSULTANTS, including landscape, civil structural, mechanical, electrical or other consulting engineering services and those provided under Paragraph 12 as part of Additional Services, 1.1 the amounts billed to the Architect for such services.

RFQ Completion Checklist

This checklist is a summary of some of the required components of the RFQ. It is provided as a convenience to vendors, but is not intended to be all-inclusive or to imply acceptance or evidence of compliance by its use. It is the responsibility of the vendor to submit complete and compliant Statements of Qualifications.

Cover Letter

Required Submittal Forms

- Certification Form
- Exceptions Requested Form
- Confidential and/or Proprietary Declaration Form
- Mandatory Certifications Form
 - a) Conflict of Interest
 - b) Boycott of Israel
 - c) Worker Eligibility Verification
- Appendix Form
 - a) Litigation
 - b) Debarment and Suspension
 - c) Canceled/Terminated Contracts
 - d) Product/Service Discontinued Use
 - e) Cooperative, Subcontract, Third Party Agreement
- Non- Collusion Affidavit

Statement of Qualifications (SOQ) Forms

- A. Firm Experience form
- B. Project Architectural Team Experience and Qualifications form
- C. Project Engineering/Consultant Team Experience and Qualifications form
- D. Project History of the A & E Teams form
- E. Design Methodology and Approach form
- F. References form