



#### **FOURTH AMENDMENT TO PROGRAM MANAGEMENT AGREEMENT**

The Program Management Agreement (“Agreement”) entered into by and between the MiraCosta Community College District (“District”) and Kitchell CEM, Inc. (“Kitchell”) for program management services for the District’s Measure MM Bond Program is hereby amended as follows:

1. This Fourth Amendment (sometimes referred to elsewhere as “Amendment No. 04”) (hereinafter referred to as “Fourth Amendment”) is effective as of September 1, 2020 provided it is approved by the District’s Board of Trustees (“Effective Date”), signed by Kitchell, and signed by the District’s Vice President, Administrative Services (“District’s VP”);
2. Specifically defined terms (those that have a word or each word with the first letter capitalized) set forth herein shall have the same meaning as defined in the Agreement, unless otherwise changed, modified, and/or specifically defined, in this Fourth Amendment;
3. This Fourth Amendment adds to the Term of the Agreement Option Period #1 and Option Period #2, as defined in paragraphs 5 and 6 of the Second Amendment to the Agreement and paragraphs 6 and 7 of the Third Amendment to the Agreement, extending the Term of the Agreement through April 30, 2022;
4. For the period commencing on September 1, 2020 and to end on April 30, 2022 (“1 Year 8 Month Period”), the Not-To-Exceed Amount for Basic Services Compensation, including Construction Management services added to the Agreement via the Third Amendment to the Agreement, is: Seven Million Six Hundred and Seventy-Three Thousand Eight Hundred and Fifty-Five Dollars and No Cents (\$7,673,855.00). For the 1 Year 8 Month Period the Not-To-Exceed Amount for Reimbursable Expenses is: Zero Dollars and No Cents (\$0.00);
5. During the 1 Year 8 Month Period, the District will make monthly payments to Kitchell for Basic Services Compensation, including Construction Management services added to the Agreement via the Third Amendment to the Agreement, and for Reimbursable Expenses as stated in Articles 4 and 6 of the Agreement.
6. Six (6) Month Staffing Plan(s) shall be submitted by Kitchell to the District during the 1 Year 8 Month Period. The first Six (6) Month Staffing Plan shall be submitted by Kitchell to the District on or before January 15, 2021; all subsequent Six (6) Month Staffing Plans shall be submitted by Kitchell to the District no later than forty-five (45) days before the end of each six month period during the 1 Year 8 Month Period.

7. Pursuant to Paragraph 1.5.3 of the Agreement, this Fourth Amendment memorializes the District’s conditional approval of Kitchell’s proposed replacement of Geoffrey Bachanas as Program Director with David Dunn. The District’s final approval of Kitchell’s proposed replacement of Geoffrey Bachanas as Program Director with David Dunn will be given, or not be given, within six (6) months of the date the last party hereto signs this Amendment, during which the District will assess the services rendered by David Dunn in the Program Director position. No later than six (6) months of the date the last party hereto signs this Amendment, the District will provide notice to Kitchell of the District’s final approval of Kitchell’s replacement of Geoffrey Bachanas as Program Director with David Dunn, or the District will give notice to Kitchell of the District’s dissatisfaction with the services rendered by David Dunn as Program Director. Should the District provide notice to Kitchell of the District’s dissatisfaction with the services rendered by David Dunn, Kitchell shall promptly remove David Dunn from the position of Program Director and immediately recommend a replacement to the District and for the District’s approval;
8. Nothing in this Fourth Amendment shall affect, in any way, the District’s and/or Kitchell’s respective rights of termination stated in Article 8 of the Agreement;
9. The days mentioned in this Fourth Amendment are calendar days, not business days;
10. Wendy Cohen and/or Daniel Mills of Kitchell are authorized to sign this Fourth Amendment, as well as any other documents regarding and/or required by the Agreement and any and all Amendments thereto, on behalf of Kitchell;
11. All other terms, conditions and provisions in the Agreement, Amendment 01, Amendment 02, Amendment 03, as well as any and all Exhibits to Amendments 01, 02 and/or 03, shall remain in full force and effect, notwithstanding this Fourth Amendment, unless expressly changed and/or expressly modified hereinabove.

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Fourth Amendment to the Agreement on the dates shown below.

**“PROGRAM MANAGER”**

**“DISTRICT”**

**KITCHELL CEM, INC.**

**MIRACOSTA COMMUNITY COLLEGE DISTRICT**

**By**

**By**

**Name:** Daniel Mills  
**Title:** Senior Vice President of Operations

Tim Flood  
Vice President, Administrative Services

**Date:** \_\_\_\_\_, 2020

**Date:** \_\_\_\_\_, 2020