MIRACOSTA COMMUNITY COLLEGE DISTRICT
BOARD OF TRUSTEES

BUDGET WORKSHOP
THURSDAY – JUNE 10, 2021
4 P.M. – OPEN SESSION – ZOOM CONFERENCE

AGENDA

I. CALL TO ORDER

II. FLAG SALUTE / ROLL CALL

III. PUBLIC COMMENT ON ITEMS ON AND NOT ON THE AGENDA

PLEASE NOTE: During this time of board meetings being conducted in an online format, public comments, as outlined below, must be emailed to jbollerud@miracosta.edu a minimum of 30 minutes prior to the start of the meeting. Your comment will be read aloud during the meeting. Your email should indicate if you wish the comment to be read at the beginning of the meeting or, if it is regarding an agenda item, if you would prefer the comment to be read at the time the agenda item comes up. All public comments must continue to adhere to the Decorum, also outlined below.

ITEMS ON THE AGENDA: Members of the audience may address the Board of Trustees on any item listed on the agenda when that agenda item comes up for discussion and/or action. Comments will be limited to three (3) minutes per agenda item and a total of fifteen (15) minutes of public comment on any one item, unless waived by the board. Non-English speakers utilizing a translator will have six (6) minutes to directly address the board. Consent items are considered routine and customary district business, and are voted on in one vote; however, a board member or a member of the audience may request that an item listed on the consent items be removed and considered individually.

ITEMS NOT ON THE AGENDA: Members of the audience may address the Board of Trustees on any topic not on the agenda so long as the topic is within the jurisdiction of the district. Under the Brown Act, the board is not permitted to engage in public discussion or take any action on an agenda item not on the agenda, except that members of the board may briefly respond to statements made or questions posed by persons exercising their public testimony rights under Government Code §54954.3. In addition, on their own initiative, or in response to questions posed by the public, a member of the board may ask a question for clarification. A member of the board or the board itself may provide a reference to staff (superintendent/president) or other resources for factual information, request staff (superintendent/president) to report back to the body at a subsequent meeting concerning any matter, or take action to direct staff (superintendent/president) to place a matter of business on a future agenda. Comments from visitors shall not exceed three (3) minutes unless the board waives the time limit. Non-English speakers utilizing a translator will have six (6) minutes to directly address the board. The board may also limit the total amount of time for speakers on a particular topic to fifteen (15) minutes.

DECORUM: Board Policy 2355 requires members of the public to observe order and decorum at board meetings and to conduct themselves in a courteous manner, avoiding profanity, obscenity, other abusive language, and threats of violence. The board president, as presiding officer, has the authority to run the meeting, which includes the authority to issue warnings, call for recesses, or clearing the boardroom in the event of disruptive behavior. Speakers shall speak to the issues and refrain from using defamatory or abusive personal remarks that disturb or impede the meeting or exceed the bounds of civility necessary to the conduct of the business of the district. Government Code section 54954.3(c) establishes that the legislative body of a local agency shall not prohibit public criticism of the policies, procedures, programs, or services of the agency, or of the acts or omissions of the legislative body, and California Penal Code section 403 makes it a misdemeanor for any person to willfully disturb or break up any assembly or meeting with lawful authority.

IV. CHANGES IN AGENDA ORDER

V. WORKSHOP

A. Fiscal Year 2021/22 Tentative Budget Workshop
B. Fiscal Year 2023-27 Five-Year Capital Construction Plan

VI. ACTION ITEMS

A. Approve Contract Between Social Tech, Inc. and MiraCosta Community College District

B. Approve Contract Between The Phoenix Philanthropy Group and the MiraCosta College District

VII. FUTURE AGENDA ITEMS AND ANNOUNCEMENTS

UPCOMING MEETING
4 p.m. – Thursday – June 17, 2021
Regular Meeting
Zoom Conference

Board meetings are normally held in meeting rooms that are accessible to those with mobility disabilities, however, an executive order issued on 3-18-20 by the Governor of California indicated that the requirements for having a physical space for meetings has been waived due to the coronavirus (COVID-19). Meetings will be held remotely until further notice. If you wish to attend the meeting and/or if you have another disability requiring special accommodation, please contact Julie Bollerud, executive assistant to the superintendent/president, at 760.795.6610 or by email at jbollerud@miracosta.edu. The California Relay Service (CRS) is available by dialing 711, or 1-800-735-2929 or 1-800-735-2922.

In compliance with Government Code §54957.5, nonexempt writings that are distributed to a majority or all of the MiraCosta Community College District Board of Trustees in advance of their meetings may be viewed at the Office of the Superintendent/President, One Barnard Drive, Oceanside, California, or by clicking on the Board of Trustee's website at http://www.miracosta.edu/OfficeOfThePresident/BoardofTrustees/Agendas.htm. Such writings will also be available at the board meeting. In addition, if you would like a copy of any record related to an item on the agenda, please contact Julie Bollerud, executive assistant to the superintendent/president, at 760.795.6610 or by email at jbollerud@miracosta.edu.

Audio recordings of board meetings are available upon request. Please contact the MiraCosta College Office of the President at 760.795.6610 or at jbollerud@miracosta.edu.

Subject:	Attachment:
Fiscal Year 2021/22 Tentative Budget Workshop	Fiscal Year 2022 Tentative Budget Workshop Presentation
Category:	Type of Board Consideration:
Information	✔ Information Consent Action
Recommended:	Approved for Consideration:
Tim Flood Vice President, Administrative Services	Sunita V. Cooke, Ph.D. Superintendent/President

BACKGROUND

Title 5, California Code of Regulations (CCR), Section 58305(a) requires the district to adopt a tentative budget on or before the first day of July each year. A tentative budget serves as authorization for the district to incur expenses and issue checks in the new fiscal year. The foundation of the tentative budget began with the budget directions given by the board of trustees at the February 18, 2021, board workshop. The district's planning and budget development processes have prepared the FY22 unrestricted general fund budget. The district's Budget and Planning Committee reviewed the tentative budget on May 21, 2021.

STATUS

A workshop on the FY22 tentative budget is being provided so board members may address any questions with the superintendent/president and provide input before the board is asked to approve the tentative budget on June 17, 2021. The final budget workshop will be presented on September 2, 2021. Adoption of the final budget is scheduled on September 9, 2021.

RECOMMENDATION

For information only.

Subject:	Attachment:
Fiscal Year 2023-27 Five-Year Capital Construction Plan Workshop	**1. Fiscal Year 2023-27 Five-Year Capital Construction Plan Presentation**
Category: **Information**	**Type of Board Consideration:** **Information** ✔ **Consent** **Action**
Recommended: **Tim Flood** **Vice President, Administrative Services**	**Approved for Consideration:** **Sunita V. Cooke, Ph.D.** **Superintendent/President**

BACKGROUND

The district is required to submit a Five-Year Capital Construction Plan to the California Community Colleges Chancellor's Office (CCCCO) by July 1 of every year. The CCCCO announced on April 6, 2021, that the deadline has been extended to August 2, 2021.

The plan identifies the capital construction projects the district plans and it includes estimated costs and schedules. The Five-Year Construction Plan identifies 44 projects, pending approval from the Board of Trustees, which will be submitted to the Chancellor's Office on or before August 2, 2021. This plan updates the next five years of Measure MM capital construction projects that were identified in the 2016 Facilities Master Plan. The funding for these projects will come from a combination of Measure MM's $455 million general obligation bond program, State Scheduled Maintenance, and District Fund 41 Capital Construction funds. The results of this extensive investigative and collaborative project planning process are documented in the attached project list.

STATUS

A workshop on the Five-Year Capital Construction Plan is being provided so board members may address any questions with the superintendent/president and provide input before the board is asked to approve the plan on June 17, 2021. Once approved, the plan will be submitted to the California Community Colleges Chancellor's Office (CCCCO) by August 2, 2021.

RECOMMENDATION

For information only.

Subject: **Approve Contract Between Social Tech, Inc. and MiraCosta Community College District**	**Attachment:** **Agreement with Social Tech, Inc.**
Category: **Action Items**	**Type of Board Consideration:** **Information** **Consent** **Action** ✓
Recommended: **Tim Flood** **Vice President, Administrative Services**	**Approved for Consideration:** **Sunita V. Cooke, Ph.D.** **Superintendent/President**

BACKGROUND

The district will engage in an intensive Futures Leadership Academy to help build understanding, capacity, and leadership in Futures methodology as it works towards just, equitable, and sustainable futures.

As a result of the Coronavirus pandemic and the disproportionate impact on people of color and those that are in the lower skilled ranks, MiraCosta College will provide faculty, classified professionals, and administrators training to promote an equitable recovery from the pandemic. This is a CA Community College system Priority and is in direct alignment to the mission and commitment of MiraCosta College.

STATUS

The objective of this work by Social Tech, Inc. is to assist MiraCosta College in recovery and futureproofing the organization through a focus on just, equitable, and sustainable futures. MiraCosta College has a commitment to become a racially just organization and a focus on historically marginalized populations within its community. Given the health, economic and educational impacts of Covid-19 on the student population and the community the college serves, this work is timely and critical.

MiraCosta College seeks a two-phase approach for a one-year commitment that includes building futures thinking skillsets and applying the skills to college-wide planning and across attendee's departments in recovering from the pandemic and re-entering the college learning and work environment. In addition, MiraCosta will host a summer weeklong program to build capacity by training internal facilitators in a cohort. This may also include some additional hourly work with committees or planning groups.

RECOMMENDATION

Authorize the director of Purchasing and Material Management to proceed with the procurement of a contract with Social Tech, Inc. in an amount not to exceed $280,000, using federal Higher Education Emergency Relief Funds (HEERF).

AGREEMENT WITH SOCIAL TECH, INC.

This agreement is hereby entered into between the **MiraCosta Community College District**, hereinafter referred to as the "District," and **Social Tech, Inc.** hereinafter referred to as the "Contractor."

The District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained, experienced and competent to perform the special services required. The District is further authorized by California Education Section 88003.1(b)(2), which provides additional grounds for contracting out services when such services are not available through the District, cannot be performed satisfactorily by District employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience and ability are not available through the District. Section 88003.1 (b)(7) also allows for the performance of outside services if the services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under the District's ordinary hiring process would frustrate their very purpose.

Therefore, the parties agree as follows:

1. **Services to be Provided by Contractor**. The Contractor shall perform the agreed-upon services as defined by the scope of work and standards of performance in the attached Contract Specifications, and in accordance with the terms and conditions specified in this agreement.

   Date and time for Performance and Completion of Service: This agreement will take effect and will be completed by the dates specified in the Contract Specifications. Completion of these services shall include, but not be limited to, the services and deliverables as described herein in the Contract Specifications section of this agreement and as approved by the District for acceptance.

   Fees and reimbursements: The Contractor will receive compensation in an amount not to exceed the hourly or project rates shown in the Contract Specifications for services performed, payable upon acceptance and approval by the District, and in accordance with the billing and payment terms as specified herein. Payment terms shall be Net 30 and payable upon successful completion of the work. The District retains the right to increase or decrease the amount of work as it deems appropriate and at its sole discretion.

2. **Standard of Performance**. The Contractor shall, in good and workmanlike manner and in accordance with the highest professional standards, at its own cost and expense, furnish all of the labor, technical, administrative, professional and all other personnel, all supplies and materials, equipment, printing, transportation, facilities and all other means whatsoever, except as herein otherwise expressly specified to be furnished by the District, necessary or proper to perform and complete the work and provide the services required of the Contractor by this agreement.

3. **Independent Contractor**. The Contractor, in the performance of this agreement, shall be and shall act as an independent contractor. The Contractor shall perform its obligations under this agreement according to the Contractor's own means and methods of work which shall be in the exclusive charge and under the control of the Contractor, and which shall not be subject to control or supervision by the District except as to the results of the work. The Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees or agents of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. The Contractor assumes the full responsibility for the acts and/or omissions of his/her employees or agents as they relate to the service to be provided under this agreement. The Contractor is not authorized to make any representation, contract or commitment on behalf of the District.

4. **Taxes**. The Contractor acknowledges and agrees that it is the sole responsibility of the Contractor to make the requisite tax filings and payment to the appropriate federal, state or local tax authorities. No part of the Contractor's compensation shall be subject to withholding by the District for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation.

5. **Materials**. The Contractor shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this agreement.

6. **Audit and Inspection of Records**. At any time during the normal business hours and as often as the District may deem necessary, the Contractor shall make available to the District for examination at the District's primary administrative offices, all data, records, investigation reports and all other materials respecting matters covered by this agreement and the Contractor will permit the District to audit, and to make audits of all invoices, materials, payrolls, records of personnel and other data related to all matters covered by this agreement.

7. **Termination**. The District may at any time, with or without reason, terminate the agreement and compensate the Contractor only for services satisfactorily rendered to the date of termination. Written notice by the District shall be sufficient to stop further performance of services by the Contractor. Notice shall be deemed given when received by the Contractor or not later than five (5) days after the day of mailing, whichever is sooner.

8. **Indemnification.** The Contractor shall defend, indemnify, and hold the District and its Board of Trustees, officers, agents, employees and volunteers harmless from any and all liabilities, claims, damages, obligations, actions, lawsuits, losses, judgments, fines, penalties, costs or expenses (including reasonable attorneys' fees) arising from or relating to the Contractor's work performed under this agreement to the full extent permitted under California law for Contractor's negligence or omissions. This shall include the Contractor fully defending, indemnifying and holding harmless the District for any negligence or omissions of the Contractor arising directly or indirectly from Contractor's performance of this contract, including, but not limited to, the use of facilities or equipment provided by the District or others. Contractor specifically acknowledges and agrees that Contractor has an independent obligation to defend the District and its employees from any liabilities or potential claims which actually or potentially fall within this indemnification provision, even if such claim is or may be groundless, fraudulent, or false.

9. **Insurance.** Contractor agrees that Contractor has a separate and independent obligation to procure insurance for the District. This requirement is in addition to and separate from Contractor's agreement to defend, indemnify and hold harmless the District. As part of this agreement, Contractor agrees to procure the following insurance:

   (a) Commercial General Liability: Contractor shall obtain a commercial general liability (broad form) insurance policy which provides insurance on an occurrence basis for personal injury, death or property damage which may arise from any and all work performed by Contractor for the District, including on District facilities and grounds, with policy limits of not less than $1,000,000 per occurrence and $2,000,000 general aggregate for personal injury, bodily injury and property damage including products and completed operations; and
   (b) Additional Insured: The District and its Board of Trustees, officers, employees, agents and volunteers shall be named as an additional insured under the policy of insurance by Contractor, and Contractor agrees that it has a separate and independent obligation to verify the District is named as an additional insured whenever Contractor performs work for the District; and
   (c) Certificate of Insurance: Contractor shall obtain a certificate of insurance with the insurance company's endorsement of commercial general liability insurance setting forth the policy limits and that the District and its Board of Trustees, officers, employees, agents and volunteers are named as an additional insured under the policy and provide it to the District. (The failure to provide the certificate of insurance containing this information to the District shall not constitute a waiver of the requirement of the Contractor to obtain the specific insurance specified above). The insurance policy shall contain provisions which include that Contractor's insurance policy is primary coverage and shall apply both before the District insurance policy, and that the insurer shall not agree to request or call upon the District for any contribution in the settlement of any claim arising from the Contractor's work for the District or use of District facilities or premises.

Waiver of Subrogation. Contractor agrees that in the event of loss due to any perils for which it has agreed to provide Commercial General and Automobile Liability insurance, Contractor shall look solely to its insurance carrier(s) for recovery and grants a waiver of any right to subrogation which any such insurer of Contractor may acquire against the District by virtue of payments of any loss under this insurance.

11. **Assignment**. The obligations of the Contractor pursuant to this agreement shall not be assigned by the Contractor.

12. **Compliance with Applicable Laws**. The Contractor agrees to comply with all federal, state and local laws, rules, regulations, codes and ordinances that are now or may in the future become applicable to the Contractor, Contractor's business, equipment and personnel engaged in operations covered by this agreement, or occurring out of the performance of such operations.

13. **Permits/Licenses**. The Contractor and all of the Contractor's employees or agents shall secure and maintain in force such permits, licenses and certifications as are required by law in connection with the furnishing of services pursuant to this agreement.

14. **Employment with Public Agency**. The Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this agreement.

15. **Entire Agreement/Amendment**. This agreement and any exhibits attached hereto constitute the entire agreement among the parties to it and supersede any prior or contemporaneous understanding or agreement with respect to the services contemplated, and may be amended only by a written amendment executed by both parties to the agreement. With respect to this agreement, the terms and conditions as specified herein shall be the sole governing agreement, and no other document shall have precedence or validity.

16. **Confidential Information**. Contractor understands and acknowledges that during its performance of the Services it or its employees, agents, consultants, or subcontractors may have access to private and confidential information in the District's possession, custody, or control, including but not limited to private information regarding students, families, faculty, employees, staff, donors, alumni, or other personnel data or information, including a student's education records as defined by 20 USC section 1232g, and other District related trade secrets, business plans, and other proprietary information ("Confidential Information"). Contractor will not disclose, copy, or modify any Confidential Information without the District's prior written consent unless otherwise required by law. Contractor will immediately notify the District if it becomes aware of any possible unauthorized disclosure or use of the Confidential Information. Contractor agrees to promptly return all copies of Confidential Information to the District upon expiration or termination of this Agreement. If the Contractor has access to Confidential Information, Contractor shall limit its employees', agents', consultants', and subcontractors' access to the records to those persons for whom access is essential to the performance of the Services. At all times during and after the term of this Agreement, Contractor shall comply with the applicable terms of the Family Educational Rights and Privacy act of 1974 (FERPA). Contractor may be required to execute supplemental confidentiality and non-disclosure agreements as solely determined by the District. This section shall survive the termination or expiration of this Agreement.

17. **Nondiscrimination in Employment**. The Contractor agrees that it will not engage in unlawful discrimination in employment of persons because of age, race, color, national origin, ancestry, ethnicity, citizenship status, veteran status, religious creed, physical or mental disability, medical condition, marital status, gender or gender identity, sexual orientation, or a perception that a person has or is associated with a person who has, or is perceived to have, any of these characteristics.

18. **Non-Waiver**. The failure of the District or the Contractor to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this agreement, shall not be deemed a waiver by that party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

19. **Administrator of Agreement**. All notices or demands to be given under this agreement by either party to the other, shall be in writing and given to the parties below. This agreement shall be administered on behalf of, and any notice desired or required to be sent to a party hereunder shall be addressed to:

For District: Mina I. Hernandez
Director of Purchasing & Material Management
MiraCosta College
1 Barnard Drive
Oceanside, CA 92056-3899

For Contractor: Contact information as referenced in the Contract Specifications section of this agreement

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

21. **Conflict of Interest and Prohibited Interests**. No officer, employee, or any other agent of the District authorized in any capacity on behalf of the District to exercise any fiduciary, executive, or other similar functions, shall be allowed to possess or accept, directly or indirectly, or in any part thereof, any financial interest in any contract, bid or other procurement activity of the District. Additionally, no officer, employee, or any other agent of the District similarly authorized, shall be allowed to possess or accept any form of gift, payment, undue advantage or influence, directly or indirectly, or in any part thereof. The District reserves the right, before any contract or procurement award is made, to require an affidavit from the respective bidder or contractor to disclaim in writing any conflict of interest. Furthermore, the District reserves the right to reject any bidder or contractor if any such conflict is discovered, and subsequently award to the next preferred vendor

22. **Governing Law**. The terms and conditions of this agreement shall be governed by the laws of the State of California with venue in San Diego County, California.

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

24. **Entire Agreement**. This Agreement and its Exhibits constitute the sole entire Agreement and understanding between the District and Contractor concerning their subject matter. It replaces and supersedes all prior agreements or negotiations, whether written or verbal. This Agreement may only be amended or modified in a writing signed by the District and Contractor. In the event that any term, condition, provision, requirement or specification set forth herein conflicts with or is inconsistent with any term, condition, provision, requirement, or specification in any Exhibit or other attachment to this Agreement or other documents related to the Services, the provisions of the body of this Agreement shall prevail.

25. **Recitals**. The Parties agree the Recitals are true, and are incorporated in this Agreement by this reference as though fully set forth.

26. **Counterparts**. This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

27. **Authority**. Contractor warrants that the person signing this Agreement on its behalf is fully authorized to enter into this Agreement.

IN WITNESS WHEREOF, the District and Contractor have executed this Agreement as of the dates set forth below.

MIRACOSTA COMMUNITY COLLEGE DISTRICT	**SOCIAL TECH, INC.**
By: _____	By: _____
Tim Flood Vice President, Administrative Services	Parminder K. Jassal, Ph.D. CEO
Date: _____	Date: May 26, 2021

Contract and Performance Specifications

Contractor Point of Contact Information:

Parminder K. Jassal, Ph.D.
Social Tech, Inc.
2121 Lohman's Crossing Road, Suite 504 336
Lakeway, TX 78734
(206) 291-6695
pjassal@socialtech.ai

MCCCD Point of Contact:
Dr. Sunita Cooke, Superintendent/President
1 Barnard Drive
Oceanside, CA 92056
(760) 795-6611
scooke@miracosta.edu

Contract Objective:
As a result of the Coronavirus pandemic and the disproportionate impact on people of color and those that are in the lower skilled ranks, MiraCosta College will provide faculty, staff, and administrator training to promote an equitable recovery from the pandemic. This is a CA Community College system Priority and is in direct alignment to the mission and commitment of MiraCosta College.

The objective of this work by Practical Futures Advisory @ SocialTech.ai is to assist MiraCosta College in recovery and futureproofing the organization through a focus on just, equitable, and sustainable futures. MiraCosta College has a commitment to become a racially-just organization and a focus on historically marginalized populations within its community. Given the health, economic and educational impacts of Covid-19 on the student population and the community the college serves, this work is timely and critical.

MiraCosta College seeks a two-phase approach for a one-year commitment that includes building futures thinking skillsets and applying the skills to college-wide planning and across attendee's departments in recovering from the pandemic and re-entering the college learning and work environment. In addition, MiraCosta would like to host a summer weeklong program to build capacity by training internal facilitators in a cohort. This may also include some specific hourly work with committees or planning groups.

Contract Period:

Start Date: May 1, 2021
End Date: April 30, 2022

Scope of Work and Description of Services Provided:
See Attachment 1 – Contractor's Proposal

Contract Deliverables and/or Proof of Completion:
See Attachment 1 – Contractor's Proposal

Contract Schedule and Performance Milestones:
Summer Futures Facilitator Training: June 21-25, 2.5 hours x 5 days
Futures Academy Phase I: Sept, Oct, Nov, 3 hours x 6 sessions
Futures Academy Phase II: Feb, March, April, 3 hours x 6 sessions
Executive Coaching / hourly work with committees or planning groups as needed.

Responsibilities of the Contractor:

Plan for and execute train the trainer summer 2021 training, coaching (as needed) and twelve modularized sessions in academic year 2021/22 in collaboration with MiraCosta contact person. Provide six sessions in fall

2021(building futures capacity and skills) and six sessions in spring 2022 (deepening skills and application) for participating faculty, classified professionals, administrators and students.

Responsibilities of the District:

Recruit participants, communicate logistics with participants, provide zoom and tech support for sessions along with half hour tech check prior to each session, administer formative and summative evaluations, arrange and host planning and debrief sessions with Futures Staff at MiraCosta prior to and after each session, and organize executive coaching needs. Provide for contracted costs and expenses specified. Provide on-site logistical support and zoom support for sessions.

Cost and Payment Structure:

☐ **Fee Rate** $ per hour/day, not to exceed a maximum of hours/days of services.

X Flat Rate = $232,000.00

- ($58,000) upon contract execution, on June 10, 2021
- ($58,000) at the end of the summer on August 31, 2021
- ($58,000) at the end of fall on November 30, 2021
- ($58,000) upon completion on April 30, 2022

Other costs: Summer expenses: $1000 for maps and miscellaneous like shipping.

Phase I expenses: $6403.09 = $1000 for maps and tools; $5403.09 ($1801.03 x 3 months, Oct-Dec) for futures platform subscription of "future co-creator."

Phase II expenses: $19,875.20 = $1800 for maps and tools; $18,075.20 ($3615.04 x 5 months, Jan-May) for futures platform subscription of "future shaper."

Coaching: $18,750 = Extension of Train the Trainer summer session for individuals requiring assistance to integrate futures practices into their daily operations.

TOTAL CHARGES NOT TO EXCEED $280,000.00

Attachment 1 – Contractor's Proposal

TO	Sunny Cooke, CEO, MiraCosta College
FROM	Parminder K. Jassal, Practical Futures Advisory @ SocialTech.ai
DATE	April 23, 2020 (revised)
RE	Proposal to (i) Deliver Summer Futures Facilitator Training; (ii) Deliver Two-Phase Practical Futures Academy to develop and apply practical futures skillsets; and (iii) Deliver Executive Coaching.

Overview

The objective of this request is for Practical Futures Advisory @ SocialTech.ai to assist MiraCosta College in futureproofing their organization through a focus on sustainable equitable futures. The goal that MiraCosta College would like to achieve is to become known as a racially-just institution.

MiraCosta College would like to engage in a two-phase approach for a one-year commitment that includes building futures thinking skillsets and applying the skills to attendee's departments. In addition, MiraCosta would like to host a summer week-long program to train futures facilitators for the two-phase implementation in a cohort setting and include some executive coaching.

Engagement Timeline

Total Engagement Timeline: May 1, 2021 to April 30, 2022.

Three Part Engagement:

(i) Futures Facilitator Summer Training from June 21-June 25, 2022
(ii) Hourly Executive Coaching, and/or work with committees or planning groups
(iii) Practical Futures Academy delivered in two-phases in Fall 2021 and Spring 2022

(i) ***Futures Facilitator Summer Training:*** This summer program delivered via zoom from June 21-25 for 2.5 hours x five days is a proven mechanism to train futures facilitators, accelerate futures training within an organization, and help support the diffusion of a futures culture throughout an organization.

The delivery format is similar to "train the trainer" sessions and prepares attendees to be futures facilitators for their own teams and for Phase I & II of the Practical Futures Training. The program is for a maximum of 15 individuals who must attend each session. For 12.5 hours of training delivered via zoom, the cost is $34,500.

(ii) ***Hourly:*** Executive Coaching, as an extension of the summer program, and/or hourly work with committees or planning groups will be billed hourly at $250/hour.

(iii) **The Practical Futures Academy** consists of two phases with six three-hour afternoon sessions from 1-4 p.m. PT via zoom on the following dates:

Phase I
Wednesday, September 1
Wednesday, September 15
Tuesday, October 5
Tuesday, October 19
Wednesday, November 3
Wednesday, November 17

Phase II
Wednesday, February 2
Wednesday, February 16
Wednesday, March 2
Wednesday, March 16
Tuesday, April 12
Tuesday, April 26

Kick-Off planning in May 2021 for Week-Long Summer Session to be held June 21-25; Create Executive Coaching Plan, Develop Summer Homework Packet, and Arrange Planning and Debrief Sessions prior to and after each session with Futures Staff at MiraCosta.

Costs

(i)	Summer Futures Facilitator Training		$34,500
(ii)	Two-Phase Practical Futures Academy	Phase I	$87,500.
		Phase II	$110,000
			$232,000

Executive Coaching $250/hour

Plus Expenses as Estimated:
Summer expenses: $1000 for maps and miscellaneous like shipping.

Phase I expenses: $6403.09 = $1000 for maps and tools; $5403.09 ($1801.03 x 3 months, Oct-Dec) for futures platform subscription of "future co-creator."

Phase II expenses: $19,875.20 = $1800 for maps and tools; $18,075.20 ($3615.04 x 5 months, Jan-May) for futures platform subscription of "future shaper."

Futures Academy Per Phase

The modular approach offers the most flexibility with team members consistently investing six (6) training hours via zoom per month over three months for each Futures Phase, along with investing 2-4 hours of time for pre- and/or post-work. This approach also allows attendees to practice skills learned and come back experienced, inspired, and hungry for more futures approaches and tools.

Phase I: *Three months (Sept, Oct, Nov) with two three-hour sessions each month: $87,500 + expenses (i.e., subscriptions to zoom webinar, futures tools like futuresplatform and/or others as selected, maps, publications, etc.).* Includes electronic toolkits, worksheets, power points, and supporting materials. Estimated Expenses: $6403.09

Phase II: *Three months (Feb, March, April) with two three-hour sessions each month: $110,000 + expenses (i.e., subscriptions to zoom webinar, futures tools like futuresplatform and/or others as needed, and customization).* Includes electronic toolkits, worksheets, power points, and supporting materials. Customization required to connect and apply to college issues. Estimated Expenses: $19,875.20

Please note that for each session, planning time is required with MiraCosta staff, along with tech checks prior to each session, and debrief calls after each session. MiraCosta will also want to administer formative evaluations for each session, and then a summative evaluation after each phase.

Practical Futures Training Phases and Modules

Phase I: Futures Methodologies, Practice, and Tools

September, October, November 2021 / Two three-hour sessions per month

Objective: Develop basic futures skill-sets

Following sessions will need to be customized per input from MiraCosta Staff:

Session 1: Awakening Futuristic Mindsets
Introduction to futures thinking, vocabulary, methodology, and basic building blocks for the future.

Session 2: Hindsight: Look Back to Look Forward
Tools to become "future ready" that prepare and mobilize for the future.

Session 3: Foresight Fundamentals I: Signal Science
Become a signal scientist and develop a "futurist mindset."

Session 4: Foresight Fundamentals II: Futures Radar
Build upon signal science and develop a futures radar.

Session 5: Shifting from Foresight to Generating Insights
Generate insights to think differently.

Session 6: Mapping Insights
Use futures frameworks to map insights.

Phase II: X-Sighting Action

Feb, March, April 2022 I Two three-hour sessions per month

Objective: Put futures skills, methodologies, and frameworks to use at MiraCosta

Following sessions will be customized per input from MiraCosta Staff:

Module 1: Shift from Insights to X-Sight
Apply insights to incite action via futurecasts.

Module 2: Futures Frameworks
Choose Futures Frameworks to translate insights into action.

Module 3: Mapping the Future: Part I
Translate insights into action.

Module 4: Mapping the Future: Part II
Translate insights into action.

Module 5: Mapping the Future: Part III
Use Insight Tools to create and reveal possible impact.

Module 6: Futures Strategies
Transform insights into catalyzing action.

Payment Schedule

Four payments:
¼ ($58,000) upon contract execution, on June 10, 2021
¼ ($58,000) at the end of the summer on August 31, 2021
¼ ($58,000) at the end of fall on November 30, 2021
and final payment of last ¼ ($58,000) upon completion on April 30, 2022.

In addition, as incurred, Executive Coaching Hours and hourly work with committees or planning groups will be billed on the above dates.

Expenses will be billed and tracked as incurred except for $1,000 upon contract execution for summer maps and miscellaneous which will be billed upon execution on June 10, 2021.

Subject: **Approve Contract Between The Phoenix Philanthropy Group and the MiraCosta College District**	**Attachment:** **Professional Services Agreement**
Category: **Action Items**	**Type of Board Consideration:** **Information** **Consent** **Action** ✓
Recommended: **Tim Flood** **Vice President, Administrative Services**	**Approved for Consideration:** **Sunita V. Cooke, Ph.D.** **Superintendent/President**

BACKGROUND

The associate vice president of advancement and executive director of the MiraCosta College Foundation retired in February 2021, leaving the district with a vacancy. In the interim, Susan Kubik, an independent contractor, has been addressing needs in the Foundation during this transition period.

STATUS

The district would like to contract with The Phoenix Philanthropy Group, Inc. to provide interim management consulting services for the Foundation until a new Associate Vice President can be hired by the district.

Phoenix Philanthropy brings a wealth of expertise in higher education Advancement, including fundraising; alumni and constituent relations; communications; advancement services; prospect research and management; and campaign planning, management, and execution. They provide seasoned consultants with experience in roles such as CEO, Chief Development Officers, and governing Board members.

Dr. Peter Smits will provide services to support the Foundation staff, advancement personnel, Foundation Board Leadership and the College Superintendent/President until such time as a permanent Associate Vice President of Advancement is hired. It is anticipated that the search will be completed by end of 2021. Dr. Smits has over 40 years' experience in the advancement arena for higher education and has served as the Interim Vice President of University Advancement at California State University, Chico; California State University, Sonoma; and San José State University.

RECOMMENDATION

Authorize the Director of Purchasing and Material Management to proceed with the procurement of a contract with The Phoenix Philanthropy Group in an amount not to exceed $132,000.00.

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") between **MIRACOSTA COMMUNITY COLLEGE DISTRICT**, a public educational agency ("District") and **THE PHOENIX PHILANTHROPY GROUP** ("Contractor") is effective upon the execution date of Contractor and District, whichever shall later occur. District and Contractor are referred to in this Agreement individually as "Party" and collectively as "Parties."

WHEREAS, District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, District is in need of such special services and advice; and

WHEREAS, Contractor warrants and represents to District that Contractor has the experience, expertise, and resources to successfully and effectively perform the agreed-upon services and will provide these services to the District in compliance with all applicable laws and regulations.

NOW, THEREFORE, in consideration of the mutual promises set forth below, the Parties agree as follows:

1. **Scope of Service.** Contractor shall perform the agreed-upon services as defined by the scope of work, deliverables, and standard of performance identified in Attachment 1, and in accordance with the terms and conditions in this Agreement. The services listed in this Agreement and in Attachment 1 are referred to as "Services." Contractor's Services will be timely and performed or provided consistent with the profession skill and care of Contractor's profession and in compliance with all applicable laws and regulations.

2. **Term.** This Agreement will begin and will be completed by the dates specified in Attachment 1. Completion of the Services, including all deliverables as described in Attachment 1, must be made to the satisfaction of the District.

3. **Fees and Reimbursements.** Contractor will receive compensation in an amount not to exceed the hourly or project rates shown in Attachment 1 for Services performed. District will pay Contractor all amounts owed within 30 days of receipt of Contractor's undisputed billing invoice. The District retains the right to increase or decrease the Services, deliverables, or amount of work as it deems appropriate and at its sole discretion.

4. **Licenses and Permits.** Contractor and all of the Contractor's employees or agents will secure and maintain in force all licenses and permits as are required by law, in connection with the performance of the Services or the furnishing of materials, articles or deliverables listed in this Agreement. All operations and materials shall be in accordance with the law.

5. **Taxes.** Contractor will fully complete the Internal Revenue Service W-9 form or other required reporting form. Contractor acknowledges and agrees that it is the Contractor's sole responsibility to make the requisite tax filings and payment to the appropriate federal, state or local tax authorities. The District will not withhold any part of the Contractor's compensation for the payment of social security, unemployment, or disability insurance or any other similar state or federal tax obligation. Contractor agrees to indemnify, defend, and hold the District harmless from any tax consequences.

6. **Expenses and Equipment.** Contractor is solely and fully responsible for all costs and expenses incident to the performance of the Services by Contractor, including any and all instrumentalities, supplies, tools, equipment, or materials necessary to perform the Services. If the District furnishes any goods, materials, or equipment to Contractor, Contractor assumes complete liability for those goods, materials, or equipment. Contractor agrees to pay for such tools or materials spoiled by it or not otherwise accounted for to the District's satisfaction.

7. **Compliance with Applicable Laws.** The Services completed herein must meet the approval of the District and are subject to the District's general right of inspection to ensure they are satisfactorily completed. Contractor agrees to comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable to Contractor, the Services, Contractor's business, equipment, and personnel engaged in operations covered by this Agreement, or accruing out of the performance of such operations.

8. **Independent Contractor.** In performing Services, Contractor shall be deemed and act as an independent contractor. Contractor understands and agrees that neither Contractor nor any of Contractor's employees, agents, consultants, or subcontractors shall be considered officers, employees, or agents of the District, and are therefore not entitled to benefits of any kind or nature that are normally provided employees of the District or to which the District's employees are normally entitled, including but not limited to workers' compensation or unemployment benefits. Contractor further understands that this Agreement is not intended to, and shall not be construed to, create a joint venture or association, or any other relationship whatsoever other than an independent contractor relationship. Contractor shall perform the Services and obligations under this Agreement according to the Contractor's own means and methods of work which shall be in the exclusive charge and under the control of Contractor, and which shall not be subject to control or supervision by the District, except as to the results of the Services. To the furthest extent provided by law, Contractor agrees to defend, indemnify, and hold the District harmless from any claims, demands, liabilities, damages, penalties, or taxes resulting from any misclassification of Contractor's employees (as independent contractors) who provide Services under this Agreement.

9. **Certification Regarding the California Penal Code Section 290.** By executing this Agreement, Contractor agrees to comply with the rules and regulations of the Sex Offender Registration Act, California Penal Code Section 290.95. Contractor certifies and understands that every person required to register under Section 290 shall disclose their status as a registrant, upon application or acceptance of a position, to that person, group, or organization. Furthermore, no person who is required to register under Section 290 because of a conviction for a crime where the victim was a minor under sixteen (16) years of age shall be an employer, employee, or independent Contractor, or act as a volunteer with any person, group, or organization in a capacity in which the registrant would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children. A violation of this section is a misdemeanor punishable by a fine not exceeding One Thousand Dollars ($1,000), by imprisonment in a county jail not to exceed a period of six (6) months, or by both that fine and imprisonment.

10. **Termination.** District may terminate this Agreement for its convenience at any time by written notification to Contractor. Termination will be effective on the date specified by the District in its notice. District will pay Contractor all earned and undisputed amounts for Services provided through the date of termination, or, as applicable, Contractor will refund to the District a pro rata share of any prepaid amounts or fees within 30 days of the effective date of termination. Upon or prior to the effective date of termination, Contractor shall provide the District with all documents, including final or draft documents, produced or collected by Contractor related to the Services.

11. **Ownership of Work Product.** The Services performed hereunder are work made for hire and District shall exclusively own, in perpetuity and worldwide, all rights to and flowing from the Services, including any intellectual property, systems, materials, documents, or other work product performed, produced, or created under this Agreement or related to the Services (collectively "Work Product"). Contractor assigns to District any and all rights Contractor could have, may have, or does have, in the Work Product, and District shall have all right, title, and interest in the Work Product, including the right to secure and maintain the copyright, trademark, and patent of the Work Product. The District shall be permitted, in its sole discretion, to reproduce, distribute, modify, and use the Work Product in any manner desired. Contactor consents to the use of Contractor's name in conjunction with the sale, use, performance, and distribution of Work Product, for any purpose and in any medium.

12. **Limitation of Liability.** The District's financial obligations under this Agreement are limited to the payment of the compensation provided in this Agreement and Attachment 1. Notwithstanding any other provision of this Agreement, in no event, shall the District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the Services performed in connection with this Agreement.

13. **Indemnity.** Contractor shall indemnify, defend, and hold the District, its Board of Trustees, officers, agents, employees, and volunteers harmless against any and all liability, claims, suits, demands, causes of action, damages, losses, injuries, and expenses, including reasonable attorneys' fees, whether actual or alleged, arising of the negligent, grossly negligent or willful conduct of the Contractor or its officers, agents, employees, independent contractors, volunteers, and subcontractors, including any claim that Contractor infringed a third party patent or copyright or other intellectual property right, unless the liability or claims arise from the District's sole and active negligence or willful misconduct. The provisions of this section shall survive the termination or expiration of this Agreement.

14. **Insurance.** Contractor must procure and maintain during the term of the Agreement, and must ensure that each subcontractor performing any part or portion of the Services will procure and maintain during the term of the Agreement, the following insurance with minimum limits equal to the amount indicated below.

a. **Commercial General Liability Insurance.** Commercial General Liability insurance with limits not less than $1,000,000 each occurrence and $2,000,000 general aggregate for personal injury, bodily injury, death, and property and other damage, including coverages for contractual liability, personal injury, broad form property damage, independent contractors, products and completed operations (required from all contractors);

b. **Commercial Automobile Liability Insurance.** Commercial Automobile Liability insurance with limits not less than $1,000,000 each occurrence for bodily injury and property damage, including coverages for owned, non-owned and hired vehicles for all activities of Contractor or its employees, agents, consultants, or subcontractors arising out of or in connection with the Agreement or Services.

c. **Workers' Compensation and Employers' Liability Insurance.** In accordance with Section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees in the amount required by law. Contractor shall maintain required Employers' Liability Insurance with limits of not less than $1,000,000 per occurrence (accident) and $1,000,000 per employee (disease).

d. **Professional Liability Insurance (If applicable due to type of service).** Professional Liability insurance with limits not less than $1,000,000 each claim and $2,000,000 aggregate, with respect to coverage for errors and omissions arising from professional services rendered under this Agreement by Contractor or any of Contractors employees, agents, consultants, or subcontractors.

e. **Cyber Liability (If applicable due to type of service).** Minimum limits not less than $2,000,000 per occurrence or claim, $2,000,000 aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Contractor in this agreement and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of

electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations.

f. **Proof of Insurance and Insurance Terms.** Contractor shall not commence the Services or any work under this Agreement until it provides the District Certificates of Insurance with original endorsements evidencing the insurance coverage required herein. Each policy required herein, except workers' compensation and professional liability, shall be endorsed with specific language naming the MiraCosta Community College District and its trustees, officers, agents, employees, and volunteers ("Additional Insureds") as additional insured parties and waiving subrogation rights against the Additional Insureds, and each Certificate of Insurance shall so specify. Such certificates shall evidence all coverages and limits required by the District in this Agreement and shall specify that insurers will give the District thirty (30) days prior written notice of non-renewal or cancellation. Each policy required herein shall be primary to any other insurance or self-insurance available to the District, its officers, trustees, agents, employees, and volunteers, and shall apply separately to each. Contractor is solely responsible for the payment of any and all premiums, deductibles, or self-insurance retentions. Contractor will ensure insurance is placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the District. Contractor's provision of the required insurance hereunder shall not act as a potential limitation on Contractor's liability.

15. **Confidential Information.** Contractor understands and acknowledges that during its performance of the Services it or its employees, agents, consultants, or subcontractors may have access to private and confidential information in the District's possession, custody, or control, including but not limited to private information regarding students, families, faculty, employees, staff, donors, alumni, or other personnel data or information, including a student's education records as defined by 20 USC section 1232g, and other District related trade secrets, business plans, and other proprietary information ("Confidential Information"). Contractor will not disclose, copy, or modify any Confidential Information without the District's prior written consent unless otherwise required by law. Contractor will immediately notify the District if it becomes aware of any possible unauthorized disclosure or use of the Confidential Information. Contractor agrees to promptly return all copies of Confidential Information to the District upon expiration or termination of this Agreement. If the Contractor has access to Confidential Information, Contractor shall limit its employees', agents', consultants', and subcontractors' access to the records to those persons for whom access is essential to the performance of the Services. At all times during and after the term of this Agreement, Contractor shall comply with the applicable terms of the Family Educational Rights and Privacy act of 1974 (FERPA). Contractor may be required to execute supplemental confidentiality and non-disclosure agreements as solely determined by the District. This section shall survive the termination or expiration of this Agreement.

16. **Non-Discrimination Endorsement**. Contractor and District mutually agree that they will comply with all applicable Federal and California state anti-discrimination laws and regulations and agree not to unlawfully discriminate against any prospective or active employee engaged in the work, or against any other person, on the basis of race, color, age, ancestry, national origin, sex, religious creed, marital status, or physical or mental disability, medical condition, genetic information, sex, gender, gender identity or expression, or sexual orientation or any other category protected by law, including but not limited to, the California Fair Employment and Housing Act, beginning with Labor Code Section 1410, and Labor Code Section 1735. In addition, Contractor agrees to require like compliance by all hired subcontractors.

17. **Provisions Required By Law Deemed Inserted**. Each provision of law and clause applicable to this Agreement, or required by law to be inserted in this Agreement, is deemed inserted herein and the Agreement shall be read and enforced as though the provisions are included herein.

18. **Audit**. Contractor agrees that the District has the right to review, audit, and to copy any of Contractor's or Contractor's sub-consultants' records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is required. Contractor agrees to allow the District access to these records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Contractor agrees to include a similar right of the District to audit records and interview staff in any subcontract related to performance of this Agreement.

19. **Advertising**. Contractor shall not use the name of the District, its officers, directors, employees, or agents, in advertising, social marketing campaigns, publicity releases or otherwise without securing the prior written consent of the District in each instance.

20. **Non-waiver.** The failure of the District or Contractor to seek redress for violation of, or to insist upon, the strict performance of any term or condition of this Agreement, shall not be deemed a waiver by the party of such term or condition, or prevent a subsequent similar act from again constituting a violation of such term or condition.

21. **Notice.** All notices required or permitted to be given under this Agreement by either party to the other, shall be in writing and given, served, and received, if given in writing and either personally delivered or deposited in the Unites States mail, registered or certified mail, postage prepaid, return receipt requested, or sent by overnight delivery services, or facsimile transmission, addressed as follows:

For District:
Mina Hernandez
Director, Purchasing & Material Management
MiraCosta Community College District
1 Barnard Drive
Oceanside, CA 92056

For Contractor:
Contact information as referenced in Attachment 1

Any notice personally given or sent by facsimile transmission is effective upon receipt. Any notice sent by overnight delivery service is effective the business day next following delivery by overnight services. Any notice given by mail is effective three days after deposit in the United States mail.

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

23. **Approval by District's Board of Trustees.** Pursuant to Education Code Section 81655, this Agreement is not valid and does not constitute an enforceable obligation against the District unless and until District's Board of Trustees has approved or ratified this Agreement as evidenced by a motion duly passed and adopted by the Board of Trustees.

24. **Conflict of Interest and Prohibited Interests.** No officer, employee, or any other agent of the District authorized in any capacity on behalf of the District to exercise any fiduciary, executive, or other similar functions, shall be allowed to possess or accept, directly or indirectly, or in any part thereof, any financial interest in any contract, bid or other procurement activity of the District. Additionally, no officer, employee, or any other agent of the District similarly authorized, shall be allowed to possess or accept any form of gift, payment, undue advantage or influence, directly or indirectly, or in any part thereof. The District reserves the right, before any Agreement or procurement award is made, to require an affidavit from the respective bidder

or Contractor to disclaim in writing any conflict of interest. Furthermore, the District reserves the right to reject any bidder or Contractor if any such conflict is discovered, and subsequently award to the next preferred vendor.

25. **Governing Law**. This Agreement shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the District or Contractor. Jurisdiction for any legal proceedings brought to interpret or enforce the terms of this Agreement, shall be brought in the San Diego County Superior Court and venue shall be the North County Regional Center (Vista, California) of the San Diego Superior Court.

26. **Force Majeure**. Contractor and District are excused from performance during the time and to the extent that they are prevented from obtaining, delivering, or performing the Services or any other obligations set forth in this Agreement due to an act of God, fire, strike, loss, shortage of transportation facilities, lock-out, commandeering of materials, products, plants or facilities by the government, epidemics or pandemic, such as COVID-19, or other events that are outside of a Party's reasonable control, when satisfactory evidence thereof is presented to the other Party, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Party not performing. For avoidance of doubt, the District's obligation to pay Contractor's invoices or other fees is excused to the extent Contractor is not performing the Services during a force majeure event.

27. **Disputes.** Except in the event of the District's failure to make earned and undisputed payments to Contractor, if the District and Contractor have a dispute, each will continue to perform its respective obligations, including Contractor's duty to provide and perform the Services, during all attempts to resolve the dispute.

28. **Mediation; Arbitration.** Parties agree that if any dispute or controversy arises between them in any way arising out of, related to, or connected with this Agreement or its subject matter, they will participate in good faith in mediation and agree to equally share all mediator fees. Mediation shall be conducted under the Commercial Mediation Rules of the American Arbitration Association in effect as of the filing of Demand for Mediation. If the Parties are unable to resolve the dispute or controversy through mediation, the Parties agree to submit the pending dispute or controversy to final and binding arbitration conducted under the Commercial Arbitration Rules of the American Arbitration Association in effect at the time of the filing of the Demand For Arbitration. Arbitration proceedings shall be conducted at a location in the county of San Diego, California. Enforcement of this agreement to arbitrate and enforcement of the arbitration award shall be in accordance with California law. By agreeing to this binding arbitration provision, the Parties understand that they are waiving certain rights and protections which may otherwise be available if a claim were determined by litigation in court, including, without limitation, the right to seek or obtain certain types of damages precluded by this arbitration provision, the right to a jury trial, certain rights of appeal, the right bring a claim as a class member in any purported class or representative proceeding; and a right to invoke formal rules of procedure and evidence. The prevailing party shall be awarded all reasonable attorneys' fees, expert witness fees, and other litigation expenses, expended or incurred in such arbitration or litigation, unless the laws related to the claim that the party prevailed on preclude a court from awarding attorneys' fees and costs to the prevailing party. The provisions of this section will apply during the term of this Agreement and survives after the termination or expiration of this Agreement.

29. **Certification Regarding Debarment, Suspension or Other Ineligibility (Applicable to all agreements funded in part or whole with federal funds).**

a. By executing this contractual instrument, Contractor agrees to comply with applicable federal suspension and debarment regulations, including, but not limited to, regulations implementing Executive Order 12549 (29 C.F.R. Part 98) (see Appendix 15).

b. By executing this contractual instrument, Contractor certifies to the best of its knowledge and belief that it and its principals:

i. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;

ii. Have not, within a three-year period preceding the execution of this contractual instrument, been convicted of, or had a civil judgment rendered against them, for: (a) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or Local) or private transaction or contract; (b) Violation of Federal or State antitrust statutes; (c) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (d) Commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects Contractor's present responsibility;

iii. Are not presently indicted for, or otherwise criminally or civilly charged by any government entity (Federal, State or Local), with commission of any of the offenses enumerated in b.2) above, of this certification;

iv. Have not, within a three-year period preceding the execution of this contractual instrument, had one or more public transaction (Federal, State or Local) terminated for cause or default;

v. Shall not, except as otherwise provided under applicable federal regulations, knowingly enter into any lower tier covered transaction with a person who is proposed for debarment, debarred, suspended, declared ineligible, or voluntarily excluded by any federal department or agency from participation in such transaction; and

vi. Include in all lower tier covered transactions, and all solicitations for covered transactions, provisions substantially similar to those set forth herein.

30. **Disabled Accessibility and Electronic and Information Technologies.** Contractor hereby warrants that any goods or services, including any hardware or software products or services, to be provided under the Agreement comply with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794d), and its implementing regulations set forth at Title 36, Code of Federal Regulations, part 1194. Contractor agrees to promptly respond to and resolve any complaint regarding accessibility of its products or services which is brought to its attention and will designate a contact person for expediting any complaints applicable to California Government Code §11135. Contractor further agrees to indemnify, defend, and hold harmless the District, the Chancellor's Office of the California Community Colleges, and any California community college using the Contractor's products or services from any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of the Agreement. Contractor and any of its agents, consultants, and subcontractors shall provide credible, third-party verification demonstrating compliance of product accessibility per current requirements of the revised US Section 508 Standards or Web Content Accessibility Guidelines 2.0, Level AA (WCAG 2.0, AA) upon initial deployment and with each major subsequent release prior to production use by faculty, staff, or students. Appropriate documentation detailing the testing, including evaluation results, will be current and maintained.

31. **Successors; No Assignment.** This Agreement and all terms hereof are binding upon and inure to the benefit of the respective successors of Contractor and the District. Neither Contractor nor District may assign rights or obligations of this Agreement without the prior written consent of the other, which may be withheld or granted in sole discretion of the Party requested to grant consent.

32. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

33. **Entire Agreement.** This Agreement, Attachment 1 and its attachments, constitute the sole entire Agreement and understanding between the District and Contractor concerning their subject matter. It replaces and supersedes all prior agreements or negotiations, whether written or verbal. It may not be modified except in a writing signed by the District and Contractor.

34. **Time of Performance.** Time is of the essence and Contractor shall perform the Services required by this Agreement in an expeditious and timely manner so as not to unreasonably delay the purpose of this Agreement.

IN WITNESS WHEREOF, the District and Contractor have executed this Agreement as of the dates set forth below.

"DISTRICT" **MIRACOSTA COMMUNITY COLLEGE DISTRICT**	**"CONTRACTOR"** **THE PHOENIX PHILANTHROPY GROUP**
By: _____	By: _____
Tim Flood, Vice President Administrative Services	Title Founder and President
Date: _____	Date: June 1, 2021

ATTACHMENT 1 - SCOPE OF WORK

Contractor/Consultant:
The Phoenix Philanthropy Group
Peter N. Smits, Ph.D.
Senior Consultant
(559) 352-0919
Smits@phoenixphilanthropy.com

District Point of Contact:
Dr. Sunita Cooke, Superintendent/President
1 Barnard Drive
Oceanside, CA 92056
(760) 795-6611
scooke@miracosta.edu

Contract Period:
Start Date: May 26, 2021
End Date: December 31, 2021

Responsibilities of the Contractor/Consultant, Scope of Work and Contract Objective:
Serve in the role of Interim Associate Vice President of Institutional Advancement. See Attachment 2 – Contractor's Proposal.

Contract Schedule of Deliverables, Performance Milestones and Proof of Completion:
See Attachment 2 – Contractor's Proposal.

Rate of Payment: $2,000.00 per day

Description	Date Due	Amount
Fee due upon execution of agreement for Interim Management of Institutional Advancement consulting services	Upon execution of agreement	$18,858.00
July 1, 2021 fee for Interim Management of Institutional Advancement consulting services	7/1/2021	$18,857.00
August 1, 2021 fee for Interim Management of Institutional Advancement consulting services	8/1/2021	$18,857.00
September 1, 2021 fee for Interim Management of Institutional Advancement consulting services	9/1/2021	$18,857.00
October 1, 2021 fee for Interim Management of Institutional Advancement consulting services	10/1/2021	$18,857.00
November 1, 2021 fee for Interim Management of Institutional Advancement consulting services	11/1/2021	$18,857.00
December 1, 2021 fee for Interim Management of Institutional Advancement consulting services	12/1/2021	$18,857.00
Total Cost of Services Not to Exceed:		**$132,000.00**

Payment:

Services shall be billed to "MiraCosta Community College District" and become payable after satisfactory completion of services and upon presentation of detailed invoice(s) specifying services being provided. All invoices must be reviewed and approved by the assigned District Point of Contact(s) prior to payment being made to Contractor/Consultant.

ATTACHMENT 2 – CONTRACTOR'S PROPOSAL

THE PHOENIX PHILANTHROPY GROUP

MIRACOSTA COLLEGE

Draft Scope of Work for

Interim Management of Institutional Advancement

May 19, 2021

The Phoenix Philanthropy Group is honored to explore with MiraCosta College President Dr. Sunita V. Cooke the opportunity to serve in the role of Interim Associate Vice President of Institutional Advancement.

Phoenix Philanthropy brings a wealth of expertise in higher education Advancement, including fundraising; alumni and constituent relations; communications; advancement services; prospect research and management; and campaign planning, management, and execution, to propel our clients further, faster. Our consultants have been CEOs, Chief Development Officers, and governing Board members, and have led comprehensive campaigns ranging from $800,000 to $750 million, so we understand how each person's role contributes to fundraising and campaign success.

We would be pleased to bring this knowledge and expertise to MiraCosta College while the search for a new Associate Vice President of Institutional Advancement is conducted.

Scope of Work

Based on our conversation with Dr. Cooke, we propose the following scope of work:

- Principal objective is to maintain momentum in campaign execution with campus and volunteer leadership
- In concert with the Comprehensive Campaign Committee, Foundation Board, and development staff, expand MiraCosta's donor pipeline while implementing recently crafted cultivation and stewardship plans
- Partner with and assist in staffing the President, Cabinet members, Deans, and others on their prospect and donor engagement strategies; implement and direct a Presidential Prospecting Protocol
- Assessment of current Institutional Advancement and Foundation procedures, operations, teams, and resources; provide detailed recommendations to enhance Advancement performance

- Develop and mentor the Advancement and Foundation staff, as needed.
- Liaison to / direct interaction and communications with President's Cabinet
- Assist in oversight and management of Institutional Advancement and Foundation staff
- Liaison to and staffing of the Foundation Board and Comprehensive Campaign Committee
    - Develop and present workshops on various board development topics, such as the role of a high-functioning board; how best to achieve meaningful engagement for board members; the role of the board in a comprehensive campaign, and others
- Assist the board in planning for and executing a successful retreat in September 2021
- Progress toward Institutional Advancement annual and campaign goals
- Progress toward the completion of campaign priorities, goals, and case for support
- Assist in the onboarding of the new Associate Vice President for Institutional Advancement

Services will average 2.0-3.0 days per week and be delivered through onsite visits beginning in late summer at a date to be determined, Zoom meetings, phone calls, and emails. This will include a 2-day visit in May for introductions and orientation.

Phoenix Philanthropy will report to President Sunita Cooke.

Your Team's Experience

Peter Smits

Dr. Peter Smits will lead this effort and serve as the Interim Associate Vice President of Institutional Advancement for MiraCosta College. Peter has previously served as the Interim Vice President of University Advancement at California State University, Chico; California State University, Sonoma; and San José State University.

With over 40 years' experience in the advancement arena for higher education institutions, Peter brings extensive expertise with fundraising and campaigns, alumni relations, and communications.

Peter is Vice President Emeritus at California State University, Fresno, where he was responsible for Fresno State's programs in development and fundraising, university communications, endowment management, and alumni relations. Under Peter's leadership, Fresno State completed its first comprehensive campaign and surpassed its $200 million campaign goal by 7%, reaching $214.2 million. One campaign highlight included the largest cash gift in the history of the California State University system, $29.4 million.

Prior to his appointment at Fresno State, Peter served as Vice President for Advancement at Indiana University of Pennsylvania in western Pennsylvania. He has also served as Executive Assistant to the Chancellor at Louisiana State University in Shreveport, Vice President for College Relations and Development at the State University of New York at Brockport, and Dean of Students at The College of White Plains in New York.

As a Senior Fellow of CASE International, Peter recently completed a landmark study on creating and sustaining a robust campus culture of philanthropy. He is a former member of the CASE District VII Board of Directors and served on the Executive Committee. He was a member of the CASE Commission on Philanthropy, was the most senior Vice President in the 23-campus California State University system and was the inaugural chair of the CSU Council of Vice Presidents.

Dr. Smits earned his Bachelor's and Master's Degrees from the State University of New York at Albany, and his Ph.D. from the University of Buffalo. He completed post-doctoral work at Harvard University.

Richard Tollefson

As needed, Peter will be supported by other Phoenix Philanthropy team members, including Founder and President Richard Tollefson. Richard has served as the Interim Vice President of Advancement / Chief Development Officer of Florida International University, Charles Darwin Foundation, and the Arizona Science Center.

Prior to starting The Phoenix Philanthropy Group in late 2004, Richard served as the Vice President of Institutional Advancement at his alma mater, Thunderbird School of Global Management, the world's leading provider of international management education.

At Thunderbird, he managed two comprehensive fundraising campaigns and raised $120 million in 26 countries, including a $60 million commitment which became the largest naming gift to a college or school of business in the world. Richard transformed Thunderbird's alumni association into a global professional association; created a corporate relationship management structure to generate revenue and manage relationships across all parts of the institution; and managed conferences, seminars, and events around the world.

Richard has worked with other acclaimed institutions, such as the Master Chorale of Orange County, The Joffrey Ballet, the University of Arizona, and Arizona State University, serving as a part of the leadership team of a $600 million campaign, and building comprehensive and sophisticated fundraising operations and innovative constituent relationship programs from the ground up.

Timeline and Fees

We propose an engagement of approximately 7.5 months, beginning May 26, 2021 and ending December 31, 2021. The fee for services outlined above is $132,000.00 (based on $2,000/day).

Fees are estimated based on the amount of time required to complete outlined activities and on the availability of MiraCosta College leadership to be active participants in this process. Fees do not include travel expenses, including airfare, accommodations, ground transportation, meals, mileage and/or parking; or administrative costs such as duplication of documentation in preparation for meetings.

A Project Management Worksheet (PMW) outlining responsibilities of Phoenix Philanthropy consultants and MiraCosta College leadership will be developed and shared at the beginning of the project. Should unforeseen complexities require a significant number of additional work days to be dedicated to the project, The Phoenix Philanthropy Group reserves the right to seek a renegotiation of contract terms.

Quotations are valid for 30 days from date of submission.

Thank You

Thank you for your consideration of our proposed scope of work. The Phoenix Philanthropy Group looks forward to the opportunity to partner with and serve MiraCosta College as it seeks to achieve its immediate and long-term fundraising goals and assist in the transition to a new Associate Vice President for Institutional Advancement.