

**Master Design Professional Agreement
Between
Foothill - De Anza Community College District
And**

This Master Agreement (“Agreement”) is made and entered into by and between the **Foothill-De Anza Community College District**, 12345 El Monte Road, Los Altos Hills, CA 94022, (hereinafter, referred to as the “District”), and _____, located at _____, (hereinafter referred to as “Design Professional”) as of the date of District’s execution (“Effective Date”). Each of District and Design Professional are sometimes hereinafter referred to as a “Party” and collectively as the “Parties”.

R-E-C-I-T-A-L-S

WHEREAS, in connection with the design, bidding and construction of the Projects, the District has retained _____ (“the Design Professional”) to provide services as the District’s representative in connection with the design, bidding and construction of the Projects.

WHEREAS, the District has identified Projects (the “Project”) to be designed, bid and constructed at the District’s Foothill College Campus or De Anza College Campus. From time to time, the District will authorize the Design Professional to commence with basic Services or Additional Services, as included in this Master Agreement, for an identified Project by issuing a mutually acceptable **Project Assignment Amendment (“PAA”)** to this Agreement for the identified Project.

WHEREAS, the Design Professional and its Design Consultants are each duly qualified and properly licensed/registered to provide and perform all Services under this Agreement and the subsequent PAA(s).

NOW THEREFORE, the Parties agree as follows:

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between the District and Design Professional shall consist of this Agreement including:

- ___ Attachment A - Schematic Design (SD) Criteria
- ___ Attachment B - Design Development (DD) Criteria
- ___ Attachment C - Construction Documents (CD) Criteria
- ___ Attachment D - Estimating Standards
- ___ Attachment E - Compensation
- ___ Attachment F - Project Assignment Amendment (PAA)

2. DESIGN PROFESSIONAL'S RESPONSIBILITIES

2.1. Design Professional’s Services

- 2.1.1. **Performance of Services.** The Design Professional's Services consist of all services performed by the Design Professional, Design Professional's

employees and Design Consultants as enumerated in Sections 3 'Scope of Design Professional's Services' and 4 'Additional Services' of this Agreement, including basic Services, Additional Services, and Contingent Additional Services, as authorized by the PAA for each Project.

- 2.1.2. **Design Professional Schedules.** The Services shall be performed in an expeditious manner, consistent with professional skill and care and the orderly progress of Project design, bidding and construction. The District and Design Professional will mutually agree upon start/finish dates for the Services or if required by the District, the Design Professional shall prepare a schedule ("the Design Professional Schedule") which identifies the principal activities of the Services to be performed or provided by the Design Professional for the Project and which graphically illustrates the planned progression of the Services. The Design Professional Schedule shall be submitted to the District for review and comment; the Design Professional shall revise the Design Professional Schedule as necessary to obtain the District's acceptance of the Design Professional Schedule for the Project. Time limits established by the Design Professional Schedule accepted by the District shall not, except for reasonable cause, be exceeded by the Design Professional or District.
- 2.1.3. **Standard of Care.** The Design Professional, its Design Consultants and their respective officers, agents, employees, subcontractors, consultants or any persons or entities providing or performing any of the basic Services or authorized Additional Services or Contingent Additional Services for the Project shall provide or perform such services consistent with the professional skill and care ordinarily provided by consultants practicing in the same or similar locality under the same or similar circumstances, and their respective applicable standards of care for school construction under all applicable laws, codes, and standards for those providing such services for projects of the type, scope and complexity of the Project.
- 2.1.4. **Partnering.** District and Design Professional shall cooperate and participate fully in Partnering at all levels and among all the parties involved in this Project, and at their own expense without additional compensation. Partnering shall mean both formal and informal interaction between and among all the parties involved in the Project, including, but not limited to, District representatives, the Design Professional and its Design Consultants, the General Contractor and key Subcontractors, the Program Manager, the Construction Manager and any outside entities as designated by the District to promote the desired goal of a successful, non-adversarial completion of the Project on time and within budget.
- 2.1.5. **Design-Build & Deferred Approval.** The Design Professional shall provide fully engineered Drawings and shall not, without the District's written consent, use "Deferred Approval" or "Design-Build" items that require the Contractor to furnish design engineering services beyond those normally required for construction means, methods, techniques, and sequences. The District may, in its sole and exclusive discretion, withhold, limit or restrict any request for consent to utilize "Deferred Approval" or "Design-Build" items in the Construction Design Documents. The Design Professional shall review the District's General and Special Conditions and shall prepare the Construction Design Documents to coordinate with those documents.

3. SCOPE OF DESIGN PROFESSIONAL'S SERVICES

3.1. Basic Services

The basic Services consist of those described in this Section 3. Subsequent information may be incorporated into the PAA that further describes the Services required for a specific component of a Project. To the extent deemed necessary by the Design Professional, the Design Professional shall employ Design Professionals, mechanical, electrical, structural, and civil engineers licensed as such by the State of California, and such other consultants necessary for the provision of services under this Agreement. All consultants provided by the Design Professional shall be paid by the Design Professional. The Design Professional shall submit, for approval by the District, names of consultants for each professional element of service of the Project. District-approved consultants provided under basic Services shall be as named below or as stated in the PAA.

Consultant Name	Discipline
_____	_____
_____	_____
_____	_____
_____	_____

Nothing in the foregoing shall create any contractual relationship between District and any consultants employed by Design Professional under the terms of this Agreement. The Design Professional is as responsible for the performance of its consultants as it would be if it had rendered these services itself, and shall be responsible for all coordination and checking for completeness and accuracy with regard to errors or omissions pursuant to the Standard of Care and contractual requirements.

- 3.1.1. Design Professional shall designate a single principal or a staff member as the Project Architect or Project Engineer. So long as the Project Architect or Project Engineer performs in a manner acceptable to District, and remains in Design Professional's employ, the Project Architect or Project Engineer shall remain in charge of all design and other services required under this Agreement, including attending design-related meetings for the Project. This individual shall not be replaced by the Design Professional during the pendency of the particular Project without the consent and approval of the District. A District-approved Project Architect or Project Engineer must be named in the PAA for each Project.
- 3.1.2. Design Professional shall assist District in fulfilling the requirements of authorities and funding agencies whose interests bear on the design, cost, and construction of the Project.
- 3.1.3. Design Professional shall use due professional care to abide by all regulations imposed by all authorities having jurisdiction over the Project.
- 3.1.4. Design Professional shall cooperate with other professionals employed by the District for related work.
- 3.1.5. To the extent required by the District, Design Professional shall consult with authorized employees, agents, and representatives of the District and the individual Colleges relative to the design and construction of the Project. The Design Professional shall prepare an electronic written record of all such meetings and consultations and shall provide the Program Manager or

Construction Manager with the resulting notes for distribution within five (5) days.

- 3.1.6. Design Professional shall review the surveys; existing record documents; seismic data; mechanical, geotechnical, and other test reports; environmental documents including the Environmental Impact Report, and any other documentation furnished by District. From an examination of the site and a review of available information, Design Professional shall determine whether such data are sufficient for purposes of design or whether additional data are needed and, if so, recommend in writing the manner in which it be provided and the needed services obtained. Design Professional may rely on the information provided by District but only to the extent such reliance is consistent with Design Professional's contractual obligations under this Agreement.
- 3.1.7. Review, approval or acceptance of Design Professional's work whether by District or others and whether during Schematic Design Phase, Design Development Phase, Construction Documents Phase, Bid Documents Phase, Bidding Phase, Construction Phase, Guarantee to Repair Period, or otherwise, shall not relieve Design Professional from responsibility for errors and omissions in Design Professional's work, pursuant to the indemnity and contractual provisions and requirements as set forth in this Agreement.
- 3.1.8. The District may employ the services of other consultants to assist the District in its review of any design phase documents provided by the Design Professional. The Design Professional is required to consider and respond to all review comments sent to the Design Professional by the District, the Program Manager, or Construction Manager regardless of the origin of the comments. These reviews may include but are not limited to 3rd party engineering reviews, code compliance reviews, and constructability reviews.
- 3.1.9. Design Professional shall prepare Construction Documents in compliance with all applicable laws, codes, rules, regulations, ordinances, and standards including, without limitation, those listed in Attachments A through F. Design Professional may obtain and rely upon the advice of other professionals, building officials, and other qualified persons as to the intent and meaning of such laws, codes, rules regulations, ordinances and standards.
- 3.1.10. The services of the Design Professional shall be performed in accordance with this Agreement and additional requirements contained in the PAA.
- 3.1.11. LEED Certification / Sustainability. The Design Professional shall actively work with and support the District's Sustainability Committee to promote "green concepts" and techniques and to incorporate these concepts into the building design. The Design Professional shall also work with this Committee to establish sustainability goals and to develop guidelines for decision making consistent with achieving a minimum of LEED Silver Certification and the criteria for evaluating and monitoring the achievement of these goals.
- 3.1.12. Deliverables. In addition to the foregoing, the basic Services to be completed by the Design Professional for the Project, are further defined under Attachments 'A thru C' – Design Criteria. The Design Professional's basic Services shall also include the coordination of documents provided by District consultants. All electronic deliverables and files required to be provided by the Design Professional under this Agreement shall be provided in the most current

commercially available version of the native file formats and in Adobe PDF compatible file format.

3.2. Pre-Design and Concept Design Services

- 3.2.1. **Scope of Services.** The Design Professional shall provide planning, pre-design or concept design services as described in the PAA relating to those services, including presentation materials or reports as required by the scope of work.
- 3.2.2. **Program Development.** The Design Professional shall review the District's Project Parameters for the Project to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the District. The Design Professional shall prepare a Program Report outlining and documenting these requirements and present it to the District for review and approval.
- 3.2.3. **Program Evaluation.** After the Design Professional receives District approval on the Program Evaluation/Report, the Design Professional shall prepare a written preliminary evaluation of the District's program, schedule and construction budget requirements, each in terms of the other, subject to the limitations set forth in Section 6.2.1 'Design Professional's Estimates', of this Agreement. The Design Professional shall revise the Program Report and Program Evaluation as necessary to obtain the approval of the District.
- 3.2.4. **Investigation of Existing Conditions.** The Design Professional shall investigate and assess the existing conditions and utility infrastructure systems for the planned improvement area as necessary to mitigate reasonably foreseeable conditions that would affect the project cost or schedule. This includes interviews with the appropriate District staff and direct inspections to determine any potential performance issues and unknown costs related to exterior envelope components, structure, interior finishes, utility infrastructure and equipment. Special care should be taken to inspect of readily accessible unconfined spaces, and to review hazardous materials reports and any "as-built" documentation including but not limited to underground conditions provided by the District. References to same shall be made or designated in the Design Documents to achieve a total project scope responsive to the approved program. Such investigation shall be conducted as early as practical.
- 3.2.5. **Accessibility Requirements.** The Design Professional shall meet with the Division of the State Architect (DSA), Office of Regulatory Services Accessibility Division to review the proposed strategies for providing accessibility to the Project. After the meeting, the Design Professional shall prepare a report summarizing accessibility strategy and distribute to the District and the DSA representative, and shall include approved elements in the Design Documents.
- 3.2.6. **Deliverables.** Deliverables for the Pre-Design and Concept Phase will include reports of the existing conditions investigation and accessibility requirements, an approved Program Report and an approved Program Evaluation addressing type of proposed construction, total proposed gross and assignable square feet of new construction with space allocations for any proposed programmatic functions/ areas, accessibility considerations, site improvements including landscaping, irrigation, site concrete and asphalt, utility infrastructure and a

reconciled estimate of probable cost within the District's approved Construction Budget for the Project.

3.3. Schematic Design Phase

- 3.3.1. Schematic Design Documents. The Design Professional shall prepare Schematic Design Documents for the Project which shall consist of Drawings and other documents which illustrate the principal components of the Project and the relationship of the principal components of the Project. The Schematic Design Documents shall also include an outline of the Specifications. See Attachment "A" – Schematic Design Criteria. See Design Professional's Approved Project Design Schedule for expected completion of 100% Schematic Design Documents. At the request of the District, the Design Professional may be required to prepare an electronic 3-dimensional model of the proposed project to be used in presentations to the District, the Design Committee and the Board of Trustees. The presentation will require a "fly-through" of the facility focused on critical spaces and perspectives as requested by the District.
- 3.3.2. District Review of Schematic Design Documents. Upon achieving 100% completion of the Schematic Design Documents, the Design Professional shall submit the Schematic Design Deliverable to the District for review and comment.
 - 3.3.2.1. Upon receipt of the District's comments, the Design Professional shall prepare a document itemizing the District's comments and shall respond fully to each comment, indicating the recommended disposition of each. The Design Professional shall identify those comments that affect the budget or have unintended effects on the Project design.
 - 3.3.2.2. The Design Professional shall incorporate into the Design Development Design Documents comments, modifications or other recorded notations approved by the District for inclusion in the Project.
- 3.3.3. Construction Cost Estimate. The Design Professional shall prepare a detailed Construction Cost Estimate of the completed Schematic Design Documents. Mark-ups, contingencies and escalations will be as mutually agreed between the Design Professional and the District. If the detailed Construction Cost Estimate materially exceeds the District's Construction Budget for the Project by more than 10%, without fault or neglect of the District, the Design Professional shall revise the Schematic Design Documents, at no additional cost to the District, so that the detailed Construction Cost Estimate conforms to the District's Construction Budget for the Project. The validation of the revised Schematic Design Documents shall appear in the Design Development Documents to reflect the Schematic Design Document changes that bring the project back into compliance with the District's Construction Budget.
- 3.3.4. Deliverables. In addition to any requirements noted above, the Design Professional shall provide four (4) printed full size copies and two (2) copies in an approved electronic format of the Schematic Design drawings and specifications to the District for review and comment.

3.4. DESIGN DEVELOPMENT PHASE

- 3.4.1. Design Development Documents. The Design Professional shall prepare, for approval by the District, Design Development Documents consisting of Drawings and other documents which fix and describe the size and character of

the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. See Attachment “B” - Design Development Criteria. See Design Professional’s Project Design Schedule for expected completion of 100% Design Development Drawings.

- 3.4.2. District Review of Design Development Documents. Upon achieving completion of the Design Development Documents, the Design Professional shall submit the Design Development Deliverable to the District for review and comment.
 - 3.4.2.1. Upon receipt of the District’s comments, the Design Professional shall prepare a document itemizing the District comments and shall respond fully to each comment, indicating the recommended disposition of each. The Design Professional shall identify those comments that affect the budget or have unintended effects on the Project design and shall recommend value engineering measures for key building systems and components.
- 3.4.3. Construction Cost Estimate. The Design Professional shall prepare a detailed Construction Cost Estimate of the completed Design Development Documents that includes all District review comments from previous design phases. Mark-ups, contingencies and escalations shall be as mutually agreed between the Design Professional and the District. If the Construction Cost Estimate materially exceeds the District’s Construction Budget for the Project by more than 10%, without fault or neglect of the District, the Design Professional shall revise the Design Development Documents so that the detailed Design Development Cost Estimate conforms to the District’s Construction Budget for the Project. The validation of the revised Design Development Documents shall appear in the Construction Design Documents to reflect the Design Development Document changes that bring the project back into compliance with the District’s Construction Budget.
- 3.4.4. Value Engineering. The Design Professional shall cooperate with the Program Manager so that the Project continues to meet the budget in its Design Documents phase. The Design Professional shall suggest alternative materials, systems or solutions to improve value to the District and/or reduce project cost, and shall provide design information and alternatives and necessary cost calculations to the District and/or the Program Manager to support their suggestions. The Design Professional’s participation in Value Engineering may require participation in associated workshops or meetings.
 - 3.4.4.1. The Design Professional shall incorporate those District comments and Value Engineering items approved by the District for inclusion into the Project. It is the Design Professional’s sole responsibility to understand, identify and to notify the District of any unintended effects, including, but not limited to, matters of aesthetics, performance, functionality and durability that may result from any proposed Value Engineering item regardless of its origin. Once approved, all Value Engineering items will become part of the Approved Program and the Design Professional will be required to incorporate them into the Project within the budget and schedule parameters approved at that time.
- 3.4.5. Deliverables. In addition to the requirements noted above, the Design Professional shall provide four (4) printed full size copies and two (2) copies in

an approved electronic format of the Design Development drawings and specifications to the District for review and comment.

3.5. Construction Design Documents Phase

3.5.1. Construction Design Documents - 50% Completed

3.5.1.1. Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Construction Budget authorized by the District, the Design Professional shall prepare, for approval by the District, Construction Design Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Project.

- The 50% completed Construction Design Documents shall be completed as shown in the Design Professional's Project Design Schedule.

3.5.1.2. District Review of 50% Construction Documents. Upon achieving completion of the 50% Construction Documents, the Design Professional shall submit the required deliverables to the District for review and comment.

- Upon receipt of the District's comments, the Design Professional shall prepare a document itemizing the District's comments and shall respond fully to each comment, indicating the recommended disposition of each. The Design Professional shall identify those comments that affect the budget or have unintended effects on the Project design and shall recommend Value Engineering measures for key building systems and components.

3.5.1.3. Construction Cost Estimate. The Design Professional shall prepare a detailed Construction Cost Estimate of the 50% completed Construction Design Documents. Mark-ups, contingencies and escalations will be as mutually agreed between the Design Professional and the District. If the Construction Cost Estimate materially exceeds the District's Construction Budget for the Project by more than 10%, without fault or neglect of the District, the Design Professional shall revise the Construction Design Documents and/or proceed with alternative design solutions so that the detailed Construction Cost Estimate for the Project conforms to the District's Construction Budget for the Project. If requested by the District, the Design Professional shall propose additive or deductive bid alternates and incorporate those approved by the District into the Construction Design Documents.

3.5.1.4. Value Engineering. The Design Professional shall cooperate with the Program Manager and Construction Manager so that the Project continues to meet the budget in its Design Documents phase. The Design Professional shall suggest alternative materials, systems or solutions to improve value to the District and/or reduce project cost, and shall provide design information and alternatives and necessary cost calculations to the District and/or the Construction Manager to support their suggestions. The Design Professional's participation in Value Engineering may require participation in associated workshops or meetings.

- The Design Professional shall incorporate those District comments and Value Engineering items approved by the District for inclusion into the Project. It is the Design Professional's sole responsibility to understand, identify and to notify the District of any unintended effects including, but not limited to, matters of aesthetics, performance, functionality and durability that may result from any proposed Value Engineering item regardless of its origin. Once approved, all Value Engineering Items will become part of the Approved Program and the Design Professional will be required to incorporate them into the project within the budget and schedule parameters approved at that time.

3.5.1.5. Deliverables. In addition to the requirements noted above, the Design Professional shall provide four (4) printed full size copies and two (2) copies in an approved electronic format of the 50% Construction Drawings and specifications to the District for review and comment.

3.5.2. Construction Design Documents - 100% Completed

3.5.2.1. The Design Professional shall prepare, for approval by the District, 100% Construction Documents consisting of Drawings and other documents which fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. See Attachment "C" – Construction Documents Criteria. See Design Professional's Project Design Schedule for expected completion of 100% Construction Documents.

3.5.2.2. Contractor Submittal Registry The Design Professional shall include in its 100% Construction Documents submittal to the District a detailed and comprehensive registry identifying all Contractor submittals as required by the plans and specifications, and/or the Bid Documents. This Submittal Registry shall be prepared and submitted in an editable Microsoft Office file format compatible with the District's current technology, and shall include specific submittal requirements, such as the format, quantity, designated reviewer(s), review requirements, or any other unique requirement, for each required submittal. The Design Professional shall update the Submittal Registry based on comments provided by the District or its consultants."

3.5.2.3. Finishes Selection. The District shall approve all finishes proposed by the Design Professional - who will be required to produce mock-ups and 3 (three) finish boards for approval. Color and Finish Boards shall be provided with physical samples of all materials exposed to view. Include a plan graphic identifying where all finishes and materials are located for review and approval of the client. The Design Professional shall endeavor to conform all suggested finishes to existing District standards.

3.5.2.4. District Review of 100% Construction Design Documents.

- Upon achieving one hundred percent (100%) completion of the Construction Design Documents, the Design Professional shall provide the required deliverables for the District's review. Design Professional will conduct a meeting to review the 100% Construction Design Documents with the District, College, and pertinent user groups to review and approve them.

- 3.5.2.5. DSA Submittal. The Design Professional shall provide the District with the Construction Design Documents when the Design Professional believes the documents are ready to be submitted to DSA for review and approval. The District may authorize the Design Professional to submit the documents to DSA before a thorough review of the documents is complete based on the Design Professional's written certification that the Project meets the District's established design, budget and schedule parameters. However, the District reserves the right to delay submission of the Documents to DSA until conformance with such parameters is verified to the District's satisfaction. The Design Professional shall submit the 100% Construction Documents package to DSA for review and approval after it receives District approval to do so.
- 3.5.2.6. Governmental Approvals. The Design Professional shall assist the District by taking the lead in filing documents and obtaining approvals required by all governmental authorities having jurisdiction over the Project including filings and approvals from DSA and the Fire District. The foregoing includes submitting for approvals, submitting applicable permits and other items necessary for approval of the Construction Design Documents, bidding of the Assigned Project, and construction of the Project. The Design Professional shall provide the District and its Construction Manager periodic budget/estimate updates at DSA and/or Construction Manager back check, and at issuance of each addenda, so the District may better monitor and control costs related to DSA or other jurisdiction's requested revisions or changes.
- 3.5.2.7. 100% Construction Cost Estimate. The Design Professional shall prepare a detailed Construction Cost Estimate of the one hundred percent (100%) completed Construction Design Documents. Mark-ups, contingencies and escalations will be as mutually agreed between the Prime Design Firm and the District. If the Construction Cost Estimate materially exceeds the District's Construction Budget for the Project, without fault or neglect of the District, the Design Professional shall revise the Construction Design Documents so that the detailed Construction Cost Estimate for the Project conforms to the District's Construction Budget for the Project. If requested by the District, the Design Professional shall propose additive or deductive bid alternates and incorporate those approved by the District into the Construction Design Documents.
- 3.5.2.8. Deliverables. In addition to the deliverables noted above, the Design Professional shall provide four (4) printed full size copies and two (2) copies in an approved electronic format of the 100% Construction Drawings and specifications to the District for review and comment.

3.5.3. Bid Documents Phase

- 3.5.3.1. The Design Professional shall produce a final set of documents suitable for reproduction and bidding. The criterion for Bid Documents includes the criteria used for Construction Documents as noted in Attachment "C, the requirements of all design review comments and Value Engineering items previously approved by the District, and shall incorporate the requirements of, and be in conformance with, all governmental authorities having jurisdiction over the Project. The Design Professional shall assemble a complete set of Bid Documents that includes contract

conditions, bidding requirements and other documents provided to the Design Professional by the District.

- 3.5.3.2. The Design Professional shall prepare a document itemizing all District review comments, constructability review comments, governmental review requirements, and proposed value engineering measures, and shall document the resolution of each item and the inclusion of items approved by the District into the Bid Documents.
- 3.5.3.3. District Review of Bid Documents. Upon achieving completion of the Bid Documents, the Design Professional shall submit the required deliverables to the District for review and approval.
- 3.5.3.4. The Design Professional shall make any adjustments necessary to obtain District approval. Once the District is satisfied that the Bid Documents represent the Project within acceptable scope, schedule and budget parameters, the District will authorize the Design Professional to proceed with submission of the Bid Documents to DSA for back-check, approval and processing. Any additional requirements imposed by the DSA at that time will be communicated to the District, inclusive of any likely impacts to the Project resulting from such additional requirements.
- 3.5.3.5. Construction Cost Estimate. The Design Professional shall update the approved 100% Construction Documents Construction Cost Estimate to include any changes to the design documents since the last approved estimate was performed. Mark-ups, contingencies and escalations will be as mutually agreed between the Design Professional and the District.
 - For projects with a Construction Budget of \$0-\$10 million, if the Construction Cost Estimate exceeds the District's Construction Budget by more than 10% without fault or neglect of the District, the Design Professional shall revise the Construction Design Documents and/or proceed with alternative design solutions so that the detailed Construction Cost Estimate for the Project conforms to the District's Construction Budget for the Project.
 - For projects with a Construction Budget of greater than \$10 million, if the Construction Cost estimate exceeds the District's Construction Budget by more than 5% without fault or neglect of the District, the Design Professional shall revise the Construction Design Documents and/or proceed with alternative design solutions so that the detailed Construction Cost Estimate for the Project conforms to the District's Construction Budget for the Project.
- 3.5.3.6. Deliverables. In addition to the requirements noted above, the Design Professional shall provide four (4) printed full size copies and two (2) copies in an approved electronic format of the Bid Document drawings and specifications to the District for reproduction and bidding purposes. All Bid Documents shall bear the stamp of approval from the Division of the State Architect.

3.6. Bidding or Negotiation Phase

- 3.6.1. Bidding Process. The Design Professional shall assist the District in obtaining bids from Contractors for construction of the Project, and assist in awarding and preparing the Construction Contract for the Project for execution. The Design

Professional's assistance shall include typical bidding issues and practices such as conducting the pre-bid job walk, attending pre-bid meetings, responding to bidder inquiries, assisting the District in issuing bid addenda, recommendations for developing alternate bid items and selection of the same for inclusion in the Construction Contract to be awarded, bid proposal reviews, and recommendations for award of the Construction Contract.

3.7. Construction Phase – Administration of the Construction Contract

- 3.7.1. Duration of Construction Phase. The Design Professional's responsibility to provide basic Services for the Construction Phase of the Project under this Agreement commences with the award of the Construction Contract for the Project and terminates upon substantial completion of the Project based on the original District-approved construction schedule and submittal of required documentation, and acceptance by all authorities having jurisdiction, or upon the District's written acceptance of the completed Project or written notice from the District that services are no longer required.
- 3.7.2. Administration of Construction Contract. The Design Professional shall provide administration of the Construction Contract for the Project as set forth below. The Design Professional's services in connection with administration of the Construction Contract for the Project shall be performed in a manner complementary to others providing services related to construction of the Project and/or administration of the Construction Contract for the Project, including, without limitation, the District, the Inspector of Record (IOR), the Construction Manager, and providers of testing and/or inspection services required for Project construction.
- 3.7.3. Design Professional Duties. Duties, responsibilities and limitations of authority of the Design Professional in connection with administration of a Construction Contract for the Project shall not be restricted, modified or extended without written agreement of the District and Design Professional. The District shall be solely responsible for ensuring that any agreement between the District and Contractor or any other party constructing a portion of the Project is in conformance with the terms and conditions contained in this Agreement. If the Agreement between the District and Contractor or other party requires services of the Design Professional beyond the basic Services described in this Agreement, the District agrees that the Design Professional shall be compensated for such services, if provided, as Additional Services or Contingent Additional Services. However, Design Professional shall not charge as Additional Services work that could/should have been performed as Basic Services during the original scheduled project duration.
- 3.7.4. Design Professional As Representative of the District. The Design Professional shall be a representative of and shall advise and consult with the District during construction of the Project until Final Payment to the Contractor for the Project is due, up to one year after the date of Substantial Completion of the work and the District's written acceptance of the completed Project or written notice from the District or Construction Manager that services are no longer required. The Design Professional shall have authority to act on behalf of the District only to the extent provided in this Agreement unless otherwise modified in writing.
- 3.7.5. Site Observations. The Design Professional and any of the Design Professional's consultants appropriate to the stage of work shall visit the

construction site and attend weekly on-site job meetings to become familiar with the progress and the quality of the work and to determine if the work is being performed in accordance with the Contract Documents and approved Contract Schedule. The Design Professional shall coordinate scheduling of site visits with the Construction Manager and all Design Professional contacts with Contractors shall be through the Construction Manager. However, the Design Professional shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of on-site observations as an Design Professional, the Design Professional shall keep the District informed of the progress and quality of the Work, and shall endeavor to guard the District against defects and deficiencies in the Work. The Design Professional and Design Professional's major Consultants are required to issue written Field Reports, at a minimum every month until Occupancy, outlining work in place to date, and any notification of deficiencies given to the Construction Manager. (More extensive site representation may be agreed to as an Additional Service as described in Paragraph 3.3.9 Additional Site Observations). The Design Professional shall promptly advise the District of any work which the Design Professional believes is not in conformity with the Contract Documents.

- 3.7.6. Contractor Responsibilities. The Design Professional shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility under the Construction Contract. The Design Professional shall not be responsible for the Contractor's schedules or failure to carry out the Work in accordance with the Contract Documents; provided, however, that the Design Professional shall keep the District informed of any material failure of the Contractor's Progress Schedule to comply with applicable requirements of the Construction Contract Documents or material failure of the Contractor to construct the Project in accordance with the Construction Contract Documents. The Design Professional shall not have control over or charge of acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.
- 3.7.7. Design Professional's Access to the Work. The Design Professional shall at all times have access to the Work of the Project wherever it is in preparation or progress.
- 3.7.8. Project Communications. Unless direct communication has been specifically authorized, the Design Professional and Contractor shall communicate through the Construction Manager. Communications by and with the Design Professional's Design Consultants shall be through the Design Professional.
- 3.7.9. Rejection of Work. The Design Professional shall have authority to reject Work that does not conform to the Construction Contract Documents. Whenever the Design Professional considers it necessary or advisable for implementation of the intent of the Construction Documents, the Design Professional shall have authority to require additional inspection or testing of the Work in accordance with the provisions of the Construction Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Design Professional nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Design Professional to the Contractor, Subcontractors, material and equipment

suppliers, their agents or employees or other persons performing portions of the Work.

3.7.10. Review of Submittals. The Design Professional shall review and take appropriate action upon Shop Drawings, Product Data and Samples (collectively referred to as "Submittals") required of the Contractor by the Construction Documents, but only for the limited purpose of checking for general conformance with the design concept expressed in the Construction Documents.

- If the Construction Documents require the Contractor to prepare a Progress Schedule which includes submission and review of Submittals as Progress Schedule activities and the Design Professional is afforded the opportunity to participate in the District's review and approval of the Contractor's Progress Schedule, the Design Professional's review of Submittals shall conform with the final approved Contractor's Progress Schedule.
- If the Construction Documents do not require, or if the District elects to waive the requirement that the Contractor prepare a Progress Schedule, the Design Professional's review of Submittals shall be completed within a reasonable time so as not to delay, hinder or interrupt the orderly progression of construction of the Project and completion of Project construction within the Construction Contract Time.
- The timeframes for the Design Professionals reviews or re-reviews shall be no longer than the following: Shop Drawing and Submittals – fourteen (14) calendar days; and High Priority Items – three (3) business days. These timeframes can only be changed by the District. If any of these timelines cannot be met, the Construction Manager and/or the District shall be informed prior to the timeframe expiration. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities or for substantiating instructions for installation or performance of equipment or systems designed by the Contractor, all of which remain the responsibility of the Contractor to the extent required by the Construction Documents.
- The Design Professional's review shall not constitute review of safety precautions or, unless otherwise specifically stated by the Design Professional, of construction means, methods, techniques, sequences or procedures. The Design Professional's review of a specific item shall not indicate review of an assembly of which the item is a component.
- When professional certification of performance characteristics of materials, systems or equipment is required by the Construction Documents, the Design Professional shall be entitled to rely upon such certification to establish that the materials, systems or equipment will meet the performance criteria required by the Contract Documents.
- The Design Professional or its consultants shall not approve any Substitutions proposed by the Contractor without the express, written consent of the District's authorized representative. The timeframes for the Design Professional's reviews or re-reviews of Substitutions including approvals by the District's authorized representative shall be no longer fourteen (14) calendar days.

- 3.7.11. Response to Contractor Questions: The timeframes for the Design Professional's responses to requested information shall be no longer than the following: Requests for Information (RFIs) – and Requests for Clarification (RFCs) – seven (7) calendar days.
- 3.7.12. Changes. In consultation with the District, the Design Professional shall assist in the development of procedures, forms, and processes for the issuance and evaluation of Changes or potential changes to the Work. The Design Professional shall prepare such Orders with supporting documentation and data for the District's approval and execution in accordance with the Construction Documents, and may authorize minor changes in the Work not involving an adjustment in the Construction Contract Price or an extension of the Construction Contract Time and which are not inconsistent with the intent of the Construction Documents. The Design Professional shall assist the District in evaluating Change Proposals of the Contractor and shall advise the District of the nature, extent and scope of Change Proposals along with alternatives. The Design Professional shall make recommendations to the District for issuing Change Orders (including specific adjustments of the Construction Contract Price and the Construction Contract Time) on account of Change Order Requests, Change Proposals, Construction Change Directives or other actual or potential Changes to the Work. The Design Professional shall review and sign or take other appropriate action on Change Orders and Construction Change Directives prepared by the Program Manager for the District's approval and execution in accordance with the Contract Documents.
- 3.7.13. Project Quality Program. To the extent that the District or the Construction Manager has instituted a Project Quality Program to more vigorously observe the quality of construction as performed by the Contractor, the Design Professional shall conduct additional and more exhaustive inspections, support material reviews, and attend meetings as specified by the Construction Manager, as an additional service.
- 3.7.14. Substantial Completion; Final Completion. The Design Professional, assisted by the Construction Manager and Inspector of Record, shall conduct inspections to determine the date or dates of Substantial Completion and the date or dates of Final Completion. The Design Professional shall generate a Punch List, as needed and requested by the Construction Manager, of all incomplete or unaccepted items of work to assist and facilitate the completion of the Project by the Contractor. The Design Professional shall forward to the Construction Manager all warranties and similar submittals required by the Contract Documents which have been received from the Contractor. The Design Professional shall complete all DSA closeout procedures and requirements, including but not limited to, completion certificates, testing reports, and Change Order approvals. The Design Professional shall provide the District a detailed listing of documents delivered to DSA along with proof of delivery. The Design Professional shall issue a final Project Certificate for Payment upon compliance with the requirements of the Contract Documents. The Design Professional shall determine and certify the date of Final Completion.
- 3.7.15. Commissioning. The Design Professional and its Design Consultants shall participate in the commissioning of the project and startup process and assist any third-party commissioning agents engaged by the District for such purposes. Attendance of MEP systems Design Consultant(s) shall be required at all commissioning meetings.

3.7.16. **Project Closeout and Commissioning.** The Design Professional shall assist the Construction Manager in meeting its obligation to close-out the construction phase of the project within 90 days of Substantial Completion. This includes, but is not limited to responding to and obtaining DSA approvals, for all RFIs, potential Change Orders (PCOs), Change Orders (COs), requests for guidance, Punch List inspections, issuance of Completion Certificates, or any other required documentation needed to close out the Project including submitting all final DSA documentation. Unless directed otherwise by the District, the only exception to the 90 day construction closeout window is the commissioning process. The commissioning process will extend beyond the closeout window. If the Design Professional's failure to assist the Construction Manager causes the Contractor to not be able to close out the project within 90 days, the Design Professional may be subject to any additional costs from the District or Construction Manager caused by that failure if it is determined to result from the actions or inactions of the Design Professional.

3.7.17. Disputes; Interpretations Under the Construction Contract Documents

3.7.17.1. **Arbiter of Disputes.** The Design Professional shall interpret and decide matters concerning performance of the District and Contractor under the requirements of the Construction Documents on written request of either the District or Contractor. The Design Professional's response to such requests shall be made with reasonable promptness and within any time limits agreed upon. The Design Professional's decisions on claims, disputes or other matters, including those in question between the District and Contractor, except for those relating to aesthetic effect as provided in Section 3.7.17.3 'Aesthetic Effects', may be subject to arbitration as provided in this Agreement and in the Construction Documents.

3.7.17.2. **Design Professional's Decisions.** Interpretations and decisions of the Design Professional shall be consistent with the intent of and reasonably inferable from the Construction Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Design Professional shall endeavor to secure faithful performance by both District and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions so rendered in good faith.

3.7.17.3. **Aesthetic Effects.** The Design Professional's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Construction Documents.

3.7.17.4. **Punch List.** At the time of determining Substantial Completion and in conjunction with the District, the Construction Manager and the Contractor, the Design Professional shall note the conditions of the Work requiring correction, replacement, removal or other action necessary to comply and conform to the requirements of the Construction Documents ("the Punch List"). The Design Professional shall, in conjunction with the District, the Construction Manager, and the Contractor, determine the time reasonably necessary to complete the Punch List items. If mutual agreement is not reached regarding the time for the Contractor's completion of the Punch List, the Design Professional shall make a binding good faith determination of the time for the Contractor's completion of the Punch List.

3.7.17.5. Modification of Construction Phase Responsibilities. Notwithstanding the items of Construction Phase Basic Services described hereinabove, the scope of the Design Professional's Construction Phase basic Services may be modified by mutual agreement of the District and the Design Professional for the Project. Modifications to the scope of Construction Phase Basic Services, if any, for the Project shall be set forth in a revision to this Agreement.

4. ADDITIONAL SERVICES

- 4.1. General. The services described in this Section 4 are not included in Basic Services. If authorized by the District, Additional Services shall be paid for by the District as provided in this Agreement, in addition to the compensation for basic Services. The services described under Sections 4.2 'Project Representation Beyond Basic Services' and 4.4 'Optional Additional Services', may be provided if authorized or confirmed in writing by the District and Design Professional. If services described under Contingent Additional Services in Section 4.3 are required due to circumstances beyond the Design Professional's control, the Design Professional shall notify the District in writing prior to commencing such services, stating the reason for the change and estimated changes, if any, in the Design Professional's Project Contract Price or Design Professional's Schedule. If the District deems that such services described under Section 4.3 are not required, the District shall give prompt written notice to the Design Professional. If the District indicates in writing that all or part of such Contingent Additional Services is not required, the Design Professional shall have no obligation to provide those services.
- 4.2. Project Representation Beyond Basic Services. If more extensive representation at the Site than is described in Section 3.7.5 'Site Observations' is required, the Design Professional shall provide one or more Project Representatives to assist in carrying out such additional on-site responsibilities. Project Representatives shall be selected, employed, and directed by the Design Professional, and the Design Professional shall be compensated therefore as agreed by the District and Design Professional. The furnishing of such project representation shall not modify the rights, responsibilities or obligations of the Design Professional as described elsewhere in this Agreement.
- 4.3. Contingent Additional Services - Contingent Additional Services consist of:
- 4.3.1. Revisions to Design Documents. Making revisions to the approved Design Development Documents or Construction Design Documents when such revisions are: (a) inconsistent with any approvals or instructions previously given by the District not otherwise authorized by this Agreement; (b) required by the enactment, interpretation or revision of codes, laws or regulations subsequent to the preparation of such documents; or (c) due to changes required as a result of the District's failure to render decisions in a timely manner. Correction of any design errors or omissions shall not be considered Contingent Additional Services.
- 4.3.2. Assigned Project Changes. Providing services required because of significant changes in the Project including, but not limited to, size, quality, or complexity requested by the District.
- 4.3.3. Fire; Casualty. Providing consultation concerning replacement of the Project damaged by fire or other cause during construction, and furnishing services required in connection with the replacement of such damage, except to the extent that the Design Professional or its Design Consultants have caused or contributed to such fire or other casualty.

- 4.3.4. Contractor Default. Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the District or Contractor under the Construction Contract.
 - 4.3.5. Excessive Claims and RFIs. Providing services in evaluating an excessive number of claims and RFIs submitted by the Contractor or others in connection with the Work, except to the extent that such claims or RFIs arise out of the services, Design Documents or other work product provided or performed by or through the Design Professional and involve claims or RFIs that are substantially based on alleged design errors or omissions.
 - 4.3.6. Dispute Resolution Proceedings. Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where the Design Professional is party thereto or where the claims are significantly design related.
 - 4.3.7. Extended Construction Duration. Providing additional Construction Administration services when the construction duration is extended through no fault of the Design Professional.
 - 4.3.8. Additional Site Observations. Providing additional Site Observations when construction duration is extended through no fault of the Design Professional.
- 4.4. Optional Additional Services: Additional Services consist of:
- 4.4.1. Feasibility/Special Studies. Providing financial feasibility or other special studies, beyond what is detailed within the basic Services.
 - 4.4.2. Site Analysis. Providing planning surveys, site evaluation or comparative studies of prospective sites, beyond what is detailed within the basic Services.
 - 4.4.3. Special Surveys / Studies. Providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the Project except to the extent expressly included in the basic Services under this Agreement.
 - 4.4.4. Quantity Surveys/Inventories. Providing detailed quantity surveys or inventories of material, equipment and labor, except as provided under 3.3.3 Schematic Design Construction Cost Estimate, 3.4.3 Design Development Construction Cost Estimate, and 3.5.1.3 and 3.5.2.7 Construction Design Construction Cost Estimates (at 50% and 100% CDs).
 - 4.4.5. Ownership/Operating Cost Evaluations. Providing analyses of owning, operating and life cycle costs.
 - 4.4.6. Interior Design. Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment, except to the extent that such items are included in the scope of the Construction Contract for the Project or included in the scope of the Design Professional's basic Services for the Project. Basic Services shall include sufficient furniture and equipment layout to confirm the functionality of the design.
 - 4.4.7. Upgrade Electrical Service. Should the need arise to augment existing utilities with new or upgraded services, provide engineering services and architectural

support for an electrical substation, upgrading high voltage transformers and 480V switchgear, or the incorporation of new power sources.

- 4.4.8. Inventory of Existing Facilities. Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities.
- 4.4.9. District's Agents Requirements. Services, exceeding those included in the scope of basic Services, in connection with the requirements of District's agents, representatives, vendors; i.e. bankers, insurance company, etc.
- 4.4.10. Post Final Payment. Providing services after issuance to the District of the Certificate for Final Payment for the Project except as provided under 3.1.11 LEED Certification and 3.7 Construction Administration which may extend the required service time period.
- 4.4.11. Record Documents. Providing services to prepare Record Design Documents or "As-Built" Drawings for the Project; provided, however, the Design Professional shall generally review the As-Built Drawings prepared by the Contractor for the Project, to the extent expressly included in the basic Services under this Agreement.
- 4.4.12. Professional Renderings. Providing preparation and presentation services of artistic representations / renderings, either drawn and / or colored, depicting the buildings future appearance, except to the extent expressly included in the basic Services under this Agreement.
- 4.4.13. Any Other Services. Providing any other services not otherwise included in this Agreement.

5. DISTRICT'S RESPONSIBILITIES

- 5.1. Project information. The District shall provide information regarding requirements for the Project, including a program, which shall set forth the District's objectives, schedule, constraints and criteria for the Project.
- 5.2. Construction Budget. The District shall establish and or provide a Construction Budget for the Project.
- 5.3. District Representative. The District shall designate a representative authorized to act on the District's behalf with respect to the Project. The District's Representative shall render decisions in a timely manner pertaining to documents submitted by the Design Professional in order to avoid unreasonable delay in the orderly and sequential progress of the Design Professional's services.
 - 5.3.1. The District designated representative shall be the person named in the PAA.
 - 5.3.2. Program Management and Coordination. The District has retained a Program Manager who will act as the District's agent to direct the Design Professional in the performance of its responsibilities. The Design Professional agrees to coordinate its work and activities with the Program Manager, and to act on the Program Manager's instructions. The Design Professional further agrees to coordinate its work with other consultants and contractors retained by the District to work on this project or on related projects.

- 5.4. Soils; Geotechnical Services. When required by the scope of the Project, the District shall furnish the services of geotechnical and soils engineers for the Project. Such services may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate professional recommendations.
- 5.5. District Design Consultants. The District shall furnish the services of Design Consultants other than those enumerated in Section 3 'Basic Services', when such services are reasonably required by the scope of the Project and are requested by the Design Professional and approved by the District. If the District approves of other Design Consultants, in lieu of the District retaining the services of such other Design Consultants, if provided in the Project Contract, the Design Professional shall retain such other Design Consultants.
- 5.6. Test/Inspection Services. The District shall furnish and Inspector of Record and structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law or the Construction Contract Documents.
- 5.7. Project Consultants. Except for the Design Consultants included in the Design Professional's basic Services, the District shall furnish all accounting and insurance counseling services as may be necessary at any time for the Project, including auditing services the District may require to verify the Contractor's Applications for Payment or to ascertain how or for what purposes the Contractor has used the money paid by or on behalf of the District.
- 5.8. Design Professional's Reliance on Information. The services, information, surveys and reports required by Sections 5.5 through 5.7 shall be furnished at the District's expense unless otherwise specified, and the Design Professional shall be entitled to rely upon the accuracy and completeness thereof, subject to the Design Professional's initial review and acceptance of such information, surveys and reports, and notification to the District of apparent errors or discrepancies therein.
- 5.9. District Provided Services/Information. Unless otherwise set forth in this Agreement, the District will provide the following information/services: (a) hazardous materials assessment/abatement consultant and information; (b) Site surveys and topography; (c) specification for furniture and/or other furnishings and equipment (FF&E) not included in the scope of the Construction Contract awarded by the District for construction of the Project.
- 5.10. District Notice. Prompt written notice shall be given by the District to the Design Professional if the District becomes aware of any fault, failure, defect, or neglect of Design Professional or in the services provided by Design Professional hereunder; provided that the failure or delay by the District in giving such notice shall not constitute a waiver of any right or remedy of the District arising out of such fault, failure or neglect of the Design Professional, except to the extent that such failure or delay of the District is materially prejudicial to the Design Professional's ability to remedy any such Design Professional fault, neglect or failure.
- 5.11. As-Built Drawings. The District shall require the Contractor to provide the District with As-Built Record Drawings indicating the location and size of all underground, concealed, or imbedded construction not covered in the original drawings, change orders, supplemental drawings, or Shop Drawings. The Contractor shall be required to record such construction on reproducible drawings furnished to the Contractor by the District. The Contractor shall

be required to submit completed record drawings to the Design Professional for review. Such a review by the Design Professional shall not relieve the Contractor of its responsibilities for the accuracy and completeness of the information recorded.

- 5.12. Permit/Agency Fees. The District shall pay all fees required by governmental authorities and agencies having jurisdiction over the Project.

6. CONSTRUCTION COST

- 6.1. Construction Cost Defined. Construction Cost includes those costs typically included in the Construction Contract Price and shall include the total cost or estimated cost to the District for construction of all elements of a Project as designed or specified by the Design Professional. The Construction Cost shall include the cost at then current market rates of labor and materials furnished to the District and equipment designed, specified, selected or specially provided for by the Design Professional, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Project during construction. Construction Cost does not include the compensation to the Design Professional under this Agreement, the costs of the land, rights-of-way, financing or other costs, which are the responsibility of the District as, provided in Section 5 'District's Responsibilities'.
- 6.2. Project Construction Budget. The Project Construction Budget for the Project is the total costs allocated by the District for construction of the Project, exclusive of the compensation to the Design Professional due under this Agreement, any Site acquisition costs, and the costs of furnishing and installing furniture, fixtures and equipment (FF&E) not included in the scope of the Construction Contract awarded for the Project. The Project Construction Budget is that budget stipulated in the PAA, which may be modified from time to time by the District in consultation with the Design Professional, provided, that if the District and Design Professional are unable to mutually agree upon modifications to the Project Construction Budget for the Project, the District shall have the authority in its sole reasonable judgment to effectuate modifications to the Project Construction Budget.
 - 6.2.1. Design Professional's Estimates. The Design Professional's evaluations of the District's Project Construction Budget and their detailed Construction Cost Estimates prepared by American Society of Professional Estimator (ASPE) certified estimator represent the Design Professional's professional judgment as a design professional familiar with the construction industry of the then current Construction Cost to construct the Project as reflected in the then current Design Documents. It is recognized, however, that neither the Design Professional nor the District has control over the cost of labor, materials or equipment, over the Contractor's methods of determining bid prices, or over competitive bidding, market or negotiating conditions. Accordingly, the Design Professional cannot and does not warrant or represent that bids or negotiated prices will not vary from the District's Project Construction Budget or from the Construction Cost Estimate or evaluation of Construction Cost prepared or agreed to by the Design Professional.
 - 6.2.2. Bid Costs Exceeding Project Construction Budget. If within ninety (90) days of the date upon which Design Professional obtains final DSA approval for the Construction Documents for the Project, the District shall have solicited Bid Proposals from bidders for award of the Construction Contract and such Bid Proposals are opened by the District within said ninety (90) days and the lowest bona fide Bid Proposal exceeds the Project Construction Budget, the District

may: (1) approve an increase in the Project Construction Budget; (2) reject all Bid Proposals and authorize re-bidding of the Project; (3) abandon or terminate the Project; or (4) revise the Project scope, or reduce or eliminate portions of the Project so as to limit and reduce construction costs. Unless the District has theretofore directed changes, modifications or inclusions in the scope of the Project or component parts thereof which cause the Bid Proposals to exceed the Project Construction Budget, if the District elects to revise the Project pursuant to (4) above, the Design Professional shall make all necessary revisions to the Construction Documents without adjustment of the Contract Price; if the District elects to reject all Bid Proposals and re-bid the Project, for such subsequent re-bid(s), Design Professional shall perform the obligations set forth in Section 3 'Scope of Design Professional's Services' above in connection with such re-bid(s) without adjustment of the Contract Price for the Project.

6.2.3. If the lowest bona fide Bid Proposal for this Project exceeds the Project Construction Budget, and if the District elects to approve an increase in the Project Construction Budget, there shall be no adjustment to the Design Professional's Contract Price.

6.3. District Responsibility for Re-Design Costs. The District may, in its sole discretion, engage an independent consultant to provide a Construction Cost estimate of the Project for comparison with the Design Professional's Construction Cost estimate for the Project. If the District's independently prepared Construction Cost estimate is reconciled with the Design Professional's Construction Cost estimate for the Project and both Construction Cost Estimates are within the Construction Budget for the Project, and if a minimum of three Bid Proposals received for the Project exceed the Project Construction Budget as identified in Section 6.2.2 by no more than seven percent (7%), then the actual cost for the Design Professional to redesign the Project, modify Construction Documents, and the efforts to re-perform obligations set forth in Section 3 (Scope of Design Professional's Services) shall be compensated as Additional Services in accordance with Section 12 (Project Contract Price & Basis of Compensation).

6.3.1. If the bids received exceed the Construction budget as identified in Section 6.2 (Project Construction Budget) by more than seven percent (7%), the Design Professional shall make all necessary revisions to the Construction Documents without adjustment to the Contract Price.

6.3.2. If however, there are less than 3 Bid Proposals received for the Project, Design Professional shall only be required to redesign at its own cost if the low bid under that scenario exceeds 10%.

6.3.3. This increase now approved by the District, from 5% to 7%, (for three or more bids) and from 5% to 10% (for less than 3 bids) shall remain effective from July 1, 2021 through June 30, 2024 for a period of three years, at which time the District will reassess the market conditions and may increase or decrease the new 7%/10% demarcations, with appropriate notice to all District approved architects. No currently submitted Architect Proposal or signed Contract shall be affected by any such change that may or may not occur on or about June 30, 2024.

7. USE OF DESIGN DOCUMENTS

- 7.1. District Ownership. Ownership of the originals and reproducible drawings, specifications and other Design Documents prepared by or on behalf of the Design Professional under this Agreement, including without limitation working drawings, master plans, preliminary sketches, architectural presentation drawings, structural and other engineering calculations or computations, estimates, Schematic Design Drawings, Design Development Drawings, and Construction Drawings are and shall remain the property of the District. By this reference, the provisions of California Education Code §17316 are incorporated by reference herein in their entirety and references in said §17316 to “school district” shall be deemed to refer to the District. Upon the termination of this Agreement, termination of any Revision for the Project, or the abandonment or all or any portion of the Project, the District may use any portion of the completed drawings, specifications, estimates and other Design Documents completed at the time of termination or abandonment for any purpose relating to the Project for which the Design Documents were prepared, including without limitation, completion of Design Documents for the Project, construction of the Project, future additions, alterations, repairs, maintenance, reference, use or occupancy. The foregoing notwithstanding, the Design Professional shall be permitted to retain copies, including reproducible and electronic file copies of the Design Documents for information and reference, including the re-use of details contained in the Design Documents for other projects, provided that the rights of the Design Professional hereunder shall not be deemed to permit the Design Professional to use the Design Documents prepared under this Agreement in whole or in substantial part for other projects.
- 7.1.1. In the event that the District permits any unauthorized use, reuse or modification to the Design Documents by any person, firm or legal entity, the District agrees to indemnify, defend and hold the Design Professional, its employees and consultants harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including reasonable attorneys' fees and all legal expenses and fees incurred on appeal, and all interest thereon, accruing or resulting to any and all persons, firms, or any other legal entity, on account of any damage or loss to property or persons, including death, arising out of such unauthorized use, reuse or modification of the Design Documents and other documents, except where the Design Professional is found to be liable for such damages or losses by a court or forum of competent jurisdiction.
- 7.2. Electronic Files. The Design Professional shall make available if requested to the District at each stage of its submission of Schematic Design Documents, Design Development Design Documents, Construction Design Documents, and Bid Documents, the corresponding electronic files for deliverables including Drawings and Specifications. Electronic files should be formatted in the latest version of MS Word (for Specifications and other written materials) and AutoCAD (for Drawings). All progress and final document submittals shall be both in paper and electronic formats. Wherever electronic documentation is required, the format shall be portable USB thumb drive prepared on the most currently available version of AutoCAD. 3D design files must be turned over according to IFC file format standards for file portability. Electronic format information shall be submitted in full compliance with the CAD Layer Guidelines developed by The Task Force on CAD Layer Guidelines and published by the American Institute of Architects Press. The Design Professional is aware that public entities are now required to make said electronic files available to contractor plan room services, upon request, at no charge pursuant to PCC§§10111.2 and 20103.7.

7.3. Archive of Electronic Files. Due to risk of damage, anomalies in transcription and modification during use, whether intended or otherwise, it is agreed that the Design Professional shall archive a copy of the electronic media transferred to the District, the contents of which it is expressly agreed shall be conclusive proof in all disputes over the content of electronic media furnished to the District. Hard paper copies of the information contained on the electronic media are to be made available.

8. DISPUTE RESOLUTION; MEDIATION AND ARBITRATION

8.1. Continuation of Design Professional's Services. Except in the event of the District's failure to make undisputed payment of the Contract Price for the Project due Design Professional for services performed pursuant to this Agreement, notwithstanding any disputes between District and Design Professional hereunder, Design Professional shall continue to provide and perform services hereunder pending a subsequent resolution of such disputes. Unless otherwise agreed in writing, the Design Professional shall continue to carry out its services as provided in this Agreement and maintain its progress during any proceedings undertaken pursuant to this Section, and the District shall continue to make payments to the Design Professional in accordance with this Agreement, except for matters specifically relating to the dispute.

8.2. Arbitration. Except as provided in Section 8.1, any other claims, disputes, disagreements or other matters in controversy between the District and the Design Professional arising out of, or related, in any manner, to the Contract Documents, or the interpretation, clarification or enforcement thereof shall be resolved by arbitration conducted in accordance with the Engineering and Construction Arbitration Rules and Procedures of JAMS in effect as of the date that a demand for Arbitration is filed, except as expressly modified herein. The location for any arbitration commenced hereunder shall be the regional office of JAMS located in San Francisco.

8.3. The Parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to JAMS, or its successor, for mediation and if the matter is not resolved through mediation, then it shall be submitted to JAMS, or its successor, for final and binding arbitration pursuant to the clause set forth in Section 8.3.4 below.

8.3.1. Either party may commence mediation by providing to JAMS and the other party a written Request for Mediation, setting forth the subject of the dispute and the relief requested.

8.3.2. The parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals and in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith and that they will share equally in its costs.

8.3.3. All offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation.

8.3.4. Either party may initiate arbitration with respect to the matters submitted to mediation by filing a written Demand for Arbitration at any time following the

initial mediation session or at any time following 45 calendar days from the date of filing the written Request for Mediation, whichever occurs first ("Earliest Initiation Date"). The mediation may continue after the commencement of arbitration if the parties so desire. The 45 day time period shall be extended by any ongoing post-mediation follow-up efforts by the mediator to reach resolution.

- 8.3.5. At no time prior to the Earliest Initiation Date shall either side initiate an arbitration or litigation related to this Agreement except to pursue a provisional remedy that is authorized by law or by JAMS Rules or by agreement of the parties. However, this limitation is inapplicable to a party if the other party refuses to comply with the requirements of Section 8.3.2 above.
- 8.3.6. All applicable statutes of limitation and defenses based upon the passage of time shall be tolled until 15 calendar days after the Earliest Initiation Date. The parties will take such action, if any, required to effectuate such tolling.
- 8.4. The Award rendered by the Arbitrator(s) shall be final and binding upon the District and the Design Professional. In connection with any arbitration proceeding commenced hereunder, the discovery rights and procedures provided for in California Code of Civil Procedure §1283.05 shall be applicable, and the same shall be deemed incorporated herein by this reference. A Demand for Arbitration shall be filed and served within a reasonable time after the occurrence of the claim, dispute or other disagreement giving rise to the Demand for Arbitration, but in no event shall a Demand for Arbitration be filed or served after the date when the institution of legal or equitable proceedings based upon such claim, dispute or other disagreement would be barred by the applicable statute of limitations.
- 8.4.1. In the event more than one Demand for Arbitration is made by either the District or the Design Professional, all such controversies shall be consolidated into a single arbitration proceeding, unless otherwise agreed to by the District and the Design Professional. The Design Professional's Surety, a Sub-consultant, a Subcontractor or Material Suppliers to the Design Professional and other third parties may be permitted to join in and be bound by an arbitration commenced hereunder if required by the terms of their respective agreements with the Design Professional, except to the extent that such joinder would unduly delay or complicate the expeditious resolution of the claim, dispute or other disagreement between the District and the Design Professional, in which case an appropriate severance order shall be issued by the Arbitrator(s).
- 8.4.2. In any arbitration arising out of or related to this Agreement, the arbitrator(s) shall award to the prevailing party, its attorneys' fees and costs, including filing fees and any administrative costs associated with arbitration, the arbitrator's fees, and witness fees, which are reasonably incurred by the prevailing party in connection with the arbitration. If the arbitrator(s) determines a party to be the prevailing party under circumstances where the prevailing party won on some but not all of the claims and counterclaims, the arbitrator(s) may award the prevailing party an appropriate percentage of the costs and attorneys' fees reasonably incurred by the prevailing party in connection with the arbitration. The confirmation, enforcement, vacation or correction of an arbitration award rendered hereunder shall be the Superior Court of the State of California for the county in which the Site is situated. The substantive and procedural rules for such post-award proceedings shall be as set forth in California Code of Civil Procedure §§1285 et seq.

9. TERMINATION, SUSPENSION OR ABANDONMENT

- 9.1. Termination for Default. This Agreement or a Project Revision may be terminated by either party upon not less than seven (7) days written notice should the other party fail substantially to perform in accordance with the terms of this Agreement, or a Project Revision, through no fault of the party initiating the termination.
- 9.2. District Right to Suspend. If the Project is suspended by the District for more than 60 consecutive days, the Design Professional shall be compensated for services performed prior to notice of such suspension. When the Assigned Project is resumed, the Design Professional's compensation shall be equitably adjusted to provide for expenses incurred as a direct result of the suspension and the resumption of the Design Professional's services.
- 9.3. District Right to Abandon. A Project Revision may be terminated by the District upon not less than seven (7) calendar days written notice to the Design Professional in the event that the Assigned Project is permanently abandoned. If the Project is abandoned by the District for more than 90 consecutive days, the Design Professional may terminate the Project Contract for the Project by giving written notice.
- 9.4. Design Professional Suspension. Failure of the District to make payments to the Design Professional in accordance with this contract may be treated by the Design Professional as substantial nonperformance and cause for termination. If the District fails to make payment when due under this contract, the Design Professional may, upon seven (7) calendar days written notice to the District, suspend performance of services under this Agreement. Unless the payment in full is received by the Design Professional within seven (7) days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Design Professional shall have no liability to the District for delay or damage caused the District because of such suspension of services. The Design Professional shall further have the right to retain possession of all Drawings, Specifications and other Design Documents prepared for the Project until full payment of all amounts due for services performed has been received. The Design Professional shall not be held liable for any claims, liabilities, costs and expenses, damages or losses that may result from any such withholding of Drawings, Specifications and other Design Documents. No failure on the part of either party of this Agreement to exercise its rights hereunder shall be or operate as a waiver, release or relinquishment of any rights or powers conferred under this Agreement.
- 9.5. Compensation to Design Professional. In the event of termination of this Agreement which is not the fault of the Design Professional, the Design Professional shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.6 'District Termination for Convenience'.
- 9.6. District Termination for Convenience. The District may, at any time, upon seven (7) calendar days advance written notice to Design Professional terminate the entirety of this Agreement for the District's convenience and without fault, neglect or default on the part of Design Professional. In such event, this Agreement shall be deemed terminated seven (7) calendar days after the date of the District's written notice to Design Professional or such other time as the District and Design Professional may mutually agree upon. If the District terminates this Agreement, the District shall make payment to the Design Professional for services provided for the Project through the date of termination plus actual costs incurred by Design Professional directly attributable to such termination.

10. MISCELLANEOUS PROVISIONS

- 10.1. **Governing Law; Interpretation.** This Agreement and each Revision issued hereunder shall be governed by the laws of the State of California. This Agreement and any Revision issued hereunder shall be interpreted in accordance with their fair meaning and strictly for or against the District or the Design Professional.
- 10.2. **Statutes of Limitation.** Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitation shall commence to run not later than either the date of Substantial Completion for the Project for acts or failures to act occurring prior to Substantial Completion of the Project, or the date of issuance of the final Certificate for Payment for acts or failures to act occurring after Substantial Completion of the Project, except for duties performed for up to one year after substantial completion.
- 10.3. **Waiver of Property Damage.** District and Design Professional waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, but only to the extent covered by errors and omissions/property insurance during construction, except such rights as they may have to the proceeds of such insurance as set forth in the General Conditions of the Contract for Construction. The District and Design Professional each shall require similar waivers from their contractors, consultants and agents.
- 10.4. **Successor and Assigns.** The District and Design Professional, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither District nor Design Professional shall assign this Agreement without the written consent of the other.
- 10.5. **Entire Agreement.** This Agreement represents the entire and integrated agreement between the District and Design Professional and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the District and Design Professional.
- 10.6. **Third Parties.** Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the District or Design Professional.
- 10.7. **Asbestos; PCBs, Toxic Substances.** Unless otherwise provided in this Agreement, the Design Professional and Design Professional's consultants shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. Accordingly, the District hereby agrees that no claim or suit for negligence, breach of contract, indemnity or any other cause of action will be brought by the District against the Design Professional, its employees and consultants arising out of the presence of asbestos, asbestos-related materials, or any other hazardous substance, in any form whatsoever, as defined by the Environmental Protection Agency or any other public authority, in any building or structure that is the subject of services performed by the Design Professional on this Project. The District further agrees to indemnify, defend and hold the Design Professional, its employees and consultants harmless from and against any and all claims, liabilities, suits, demands, losses, costs and expenses, including reasonable attorneys' fees and all legal expenses and fees incurred on appeal, and all interest thereon, accruing or resulting to any and all persons, firms or any other legal entity, on account of any damage or loss to property or persons, including death, arising out of the presence of hazardous substances, including, but not limited to, asbestos or asbestos-related

materials, except where the Design Professional is found to be solely liable for such damages or losses by a court or forum of competent jurisdiction.

10.8. **Design Professional Use of Project Materials.** The Design Professional shall have the right to include representations of the design of the Project, including photographs of the exterior and interior, among the Design Professional's promotional and professional materials. The Design Professional's materials shall not include the District's confidential or proprietary information if the District has previously advised the Design Professional in writing of the specific information considered by the District to be confidential or proprietary. The District shall provide professional credit for the Design Professional on the construction sign and in the promotional materials for the Project.

10.9. **Insurance.** Unless otherwise stated in the PAA, at all times during performance of services under this Agreement, the Design Professional and each of its Design Consultants under this Agreement or for an Assigned Project shall obtain and maintain the following insurance coverage: Each of the Design Professionals Design Consultants shall maintain insurance coverage equal to the amount listed below.

Commercial General Liability	\$2,000,000 per occurrence for bodily injury, personal injury and property damage.
Automobile Liability	\$1,000,000 combined single limit per accident for bodily injury and property damage.
Workers' Compensation and Employers Liability	Workers' Compensation limits as required by the California Labor Code; and Employers Liability limits of \$1,000,000 per accident.
Professional Liability Errors & Omissions	\$2,000,000 per occurrence.

10.9.1. Prior to commencement of services for the Project, the Design Professional shall deliver to the District, Certificates of Insurance evidencing the insurance coverage required hereunder for the Design Professional and each Design Consultant for the Project. Said Insurance Certificates shall also show the deductible or any self-insured amounts of each policy.

10.9.2. All policies of insurance required hereunder shall be acceptable only if issued by an admitted insurance carrier licensed to do business in the State of California, carrying a rating of not less than A-VII in the most current A.M. Best's Insurance Rating Guide, – or otherwise acceptable to the District. Coverage under each of the required insurance policies shall, whether by endorsement or otherwise, provide that the coverage there under shall not be modified, cancelled or allowed to expire without at least thirty (30) days advance written notice to the District.

10.9.3. The District and its consultants shall be named as Additional Insureds to the Commercial Liability Insurance policy of the Design Professional and each of its Design Consultants for the Project. The District shall have the right to withhold any and all payments due Design Professional until the appropriate and complete Certificates of Insurance are provided.

10.10. **DSA Standards.** Design Professional understands and agrees that the Project will be subject to regulatory review and approval by the Division of the State Architect (DSA), and understands and agrees that a higher level of design drawings and construction are required to meet State of California school construction requirements. The Design

Professional shall manage, coordinate, and expedite when required, all necessary communications and meetings for timely resolution of all DSA issues and requirements to assist the Project Schedule and provide all timely required DSA documentation through and including close out of the Project. The Design Professional recognizes that due to state budgeting restrictions, DSA is understaffed and submissions to DSA may require substantial lead times, and should factor that in accordingly.

10.11. **Definitions.** Unless otherwise set forth in this Agreement, the following terms shall be as defined herein.

10.11.1. **Construction Contract.** The Contract for Construction awarded by the District to a Contractor for the construction the Project. The District may, in its sole and exclusive discretion award one or more Construction Contracts for construction of the Project; if the District elects to award one or more Construction Contracts for construction of the Project, references herein to “Construction Contract” shall refer to all Construction Contracts awarded by the District for the Project.

10.11.2. **Contractor.** The individual or entity awarded the Construction Contract by the District for the Project. If the District awards more than one Construction Contract for construction of the Project, references in this Agreement to the Contractor shall be deemed references to all Contractors awarded a Construction Contract for the Project.

10.11.3. **Design Documents.** The Drawings, Specifications, calculations and other work product prepared by the Design Professional or its Design Consultants for the Project or any portion thereof. Design Documents include Drawings, Specifications and other documents prepared by the Design Professional or a Design Consultant for the Project. As applicable by the context in which the term “Design Documents” is utilized, the term Design Documents includes the Design Documents prepared by or on behalf of the Design Professional during the Schematic Design, Design Development and Construction Documents Phases of this Agreement.

10.11.4. **Design Consultant(s).** Design Consultant(s) are individuals or entities retained by Design Professional to provide or perform a portion of the Design Professional’s services or work product hereunder, including any portion of the Design Documents. Design Consultants shall be duly licensed as required by law, rule or regulation and shall be qualified to perform or provide the portion of Design Professional’s services or work product assigned by having previously provided design consulting services for California public school project design and construction. Within seven (7) days of the signing of this Agreement by the Design Professional, the Design Professional shall submit a complete list of all Design Consultants it intends to utilize on this Project. The District shall have the right to reasonably disapprove a Design Consultant. Design Professional shall be responsible for the adequacy, timeliness and quality of services or work product provided or performed by Design Consultants and coordination of same; Design Professional shall be liable to District for, and shall defend, indemnify and hold harmless District and its Board of Trustees, employees, officers, agents and representatives from and against, all losses, costs, damages, liabilities, actions or demands arising out of the services or work product provided or performed by Design Consultants.

- 10.11.5. **Submittals.** Shop Drawings, Product Data or Samples prepared or provided by the Contractor or its Subcontractor(s) or supplier(s) illustrating some portion of the Work.
- 10.11.6. **Site.** The physical area for construction and related activities of the Project.
- 10.11.7. **Construction Cost Estimate.** Construction Cost Estimates are detailed estimates prepared by or on behalf of the Design Professional of the then current costs of labor, materials, equipment and services plus a reasonable allowance for the Contractor's profit, overhead and administrative costs as necessary to complete construction of the Project in accordance with the Design Documents. Construction Cost Estimates shall include a reasonable allowance for contingencies relating to market conditions at the time of solicitation of Contractor bids for the Work of the Project and shall accurately estimate the full value of the Project scope included in the Project Construction Budget.
- 10.11.8. **Construction Contract Time.** The Construction Contract Time is the duration allowed under a Construction Contract awarded by the District for the Project for the Contractor to achieve Substantial Completion of construction of the Project.
- 10.11.9. **Construction Contract Price.** The Construction Contract Price is the Contract Price due from the District to a Contractor awarded a Construction Contract for the Project.
- 10.11.10. **Project Contract Price.** The Project Contract Price is the estimate of the total amount payable by the District to the Design Professional for the Basic Services of the Project.

11. PAYMENTS TO THE DESIGN PROFESSIONAL

- 11.1. Direct Personnel Expense. The Project Contract Price includes the Design Professional's Direct Personnel Expenses and related overhead costs. These are defined as the direct salaries of the Design Professional's personnel engaged on the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, pensions and similar contributions and benefits, travel to and within San Francisco, San Mateo, Santa Clara, Contra Costa, and Alameda Counties, insurance and other overhead costs associated with or arising out of performance of basic Services for an Assigned Party, except for Reimbursable Expenses.
- 11.2. Payments on Account of Basic Services
 - 11.2.1. Design Professional Billings to District. During the course of providing basic Services, the Design Professional shall submit monthly billing invoices to the District for payment of the Contract Price for basic Services. Additional Services performed or incurred in the prior month shall not be billed for until receiving written authorization from the District or its representative. Design Professional's billings shall be in such form and format as may be reasonably requested by District, including without limitation, allocation of billings to pending Projects.
 - 11.2.2. District Payments to Design Professional. Within thirty (30) days of receipt of Design Professional's billing invoices, District will make payment to Design Professional of undisputed amounts of the Contract Price due for basic Services, and authorized Additional Services. No deductions will be made or withheld from payments due Design Professional hereunder on account of any

penalty, assessment, liquidated damages or other amounts withheld by the District from payment to the Contractor engaged by the District for Project construction. The District may, however, withhold or deduct from amounts otherwise due Design Professional hereunder if Design Professional shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Design Professional has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting from the Design Professional's breach of contract, negligence, recklessness or willful misconduct. Notwithstanding any provision of this Agreement to the contrary, if the District shall, in good faith, dispute the amount due Design Professional under any billing invoice rendered by Design Professional under this Agreement, pursuant to Civil Code §3320(a), the District may withhold from payment to the Design Professional an amount not to exceed 150% of the disputed amount. The District agrees to return disputed invoices within ten (10) days of that invoice with a clear description of the nature of the dispute. Undisputed amounts unpaid thirty (30) days after the issue date of the Design Professional's invoice shall be assessed interest in accordance with Civil Code §3320.

12. PROJECT CONTRACT PRICE & BASIS OF COMPENSATION

- 12.1. Compensation for Basic Services. The basis of payment for Basic Services, Additional Services, and Reimbursable Expenses shall be pursuant to Attachment E (Compensation) which sets forth the rates to be used in PAA for each Project.
- 12.2. Compensation for Additional Services. Compensation for the personnel of the Design Professional and Design Consultants performing authorized Additional Services shall be in accordance with the applicable provisions set forth in the PAA for each Project. All requests for Additional Services must be supported by employee time cards that show the exact hours worked and describe in sufficient detail the specific Additional Services performed on the particular Project.
- 12.3. Compensation for Reimbursable Expenses.
 - 12.3.1. Compensation. If compensation for services is authorized for a lump sum, compensation for Miscellaneous Expenses incurred in the interest of the Project shall be included in the compensation for services.
 - 12.3.2. Miscellaneous Expenses. Expenses include elements such as, but not limited to, travel, reproductions and computer plotting as needed for the Design Professional's contracted services and coordination, courier, telephone and FAX charges.
 - 12.3.3. Travel Costs: All travel expenses, including mileage, parking and bridge tolls incurred within 75 miles of the project site, Campus office(s), or the District's office are considered Miscellaneous Expenses and are included in the Design Professional's basic services and fees.
 - 12.3.4. Shipping- Delivery & Courier Services: All Project related expenses for the shipping, delivery or courier of Project related documents to the Design Professional's sub-consultants or to any Authorities Having Jurisdiction over the Project are included in the Design Professional's basic Services and fees.

- 12.3.5. Production & Reproduction Costs: Included in the Design Professional's compensation for basic Services are the costs associated with the production, reproduction and/or delivery of the following items:
- 12.3.5.1. Any required document, deliverable or presentation material specifically noted in this Agreement or any subsequent PAA.
 - 12.3.5.2. Any item, document or work product used to facilitate or coordinate design efforts between the Design Professional and its subconsultants.
 - 12.3.5.3. Color and Finish Boards as required in the Agreement.
 - 12.3.5.4. Design Phase deliverables to Owner at the Programming, Schematic, Design Development, Construction Drawings and Bid Documents phases (4 copies of full size paper plans and specifications and 2 copies on electronic storage devices in both native and .pdf file formats as requested by the District).
 - 12.3.5.5. Any and all documents required by Authorities having jurisdiction over the project including but not limited to:
 - Division of the State Architect
 - California Community College Office of the State Chancellor's Office
 - City, County or State Fire Marshal
 - California Department of Transportation
 - City (where college is located)
 - Santa Clara County
 - Bay Area Air Quality Management District
 - Any and all documents related to the coordination of design efforts between the Design Professional and any of its sub-consultants.
 - Bid amendments and addenda
 - Bulletins, supplemental instructions and design sketches
- 12.3.6. Reimbursable Expenses. The following reimbursable costs are not included in the lump sum compensation for basic Services and shall be reimbursed at cost plus a 10% charge for administration and overhead with a not-to-exceed amount of the total contract as noted in the PAA or the Request for Qualifications / Proposal.
- 12.3.7. Plan Check/Permit Fees: Fees paid to the Division of the State Architect or other Regulatory Agency.
- 12.3.8. District requested reproduction costs such as reproduction of Renderings or similar presentation materials not included in the Basic Services or provided for in the PAA, or expenses related to Agency review or during construction.
- 12.3.9. Costs associated with the reproduction or delivery of Plans and Specifications issued to bidders.
- 12.3.10. The reasonable expense of travel costs incurred by the Design Professional or its consultants when requested by the District to travel to a location more than 75 miles from either: the project site, Campus office(s), or the District's office, incurred in performing the Work.

13. INDEMNIFICATION

13.1. **Design Professional Indemnity of District.** To the fullest extent permitted by law, except to the extent caused in whole or in part by indemnitee, the Design Professional shall indemnify, defend and hold harmless the District and its employees, officers, Trustees, agents and representatives from any and all claims, demands, losses, responsibilities or liabilities for: (a) injury or death of Design Professional's or the Design Professional's Design Consultants' employees arising out of this Agreement; (b) injury or death of persons or damage to property, including the removal or replacement of any in-place work during or after Project Completion; or (c) other costs or charges, to the extent the liabilities, damages and losses are caused by willful misconduct, recklessness, or negligence, including concurrent negligence, of the Design Professional or Consultant of the Design Professional. The foregoing shall include without limitation, attorney's fees and costs incurred by the District, and shall survive the termination of this Agreement until any such claim, demand, loss, responsibility or liability covered by the provisions hereof is barred by the applicable statute of limitations.

13.1.1. This indemnity agreement shall not be construed to limit the enforceability of other contractual provisions between the District and the Design Professional requiring cooperation with the District regarding any claim by a construction Contractor and any contractual requirement concerning participation in any court proceeding or arbitration.

13.1.2. It is the intent of the District that this indemnity agreement shall be in accordance with California Civil Code Section 2782.8 and is intended to apply to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Design Professional.

13.2. **Design Professional Reimbursement of District Attorney's Fees and Indemnify Payment.** The Design Professional shall immediately tender demand(s) for indemnity made by the District to its insurance carrier for a determination after the date of tender. At the conclusion of the underlying matter or claim for which indemnity is sought (through voluntary settlement, arbitration award, or court judgment), the Design Professional shall, pursuant to Civil Code §2782.8, reimburse the District for the settlement monies paid in proportion to determination of the Design Professional's proportional fault. Should the Design Professional and/or its insurance company fail or refuse to proportionally reimburse the District for: (a) its attorney's fees; or (b) indemnity paid, then either matter shall be submitted to binding arbitration for determination within 60 days, after failure or refusal to make payment to the District.

13.3. **Design Professional Bound to Arbitration by Other Claims.** In the event of any claim, arbitration demand filed on behalf of the Contractor or any Subcontractor in which design deficiencies, or errors, or Design Professional contract administration deficiencies are alleged as a basis for said claim, Design Professional agrees to participate as a party in any such arbitration or state court litigation, and shall further be bound as a party to any arbitration set forth or required under California Public Contract Code § 20104 for Contractor claims of \$375,000 or less.

13.4. **District Indemnify of Design Professional.** The District shall indemnify and hold harmless the Design Professional, its employees and consultants from all claims arising of bodily injury (including death) and physical damage (other than to the Project itself and property covered by insurance), but only to the extent that they arise out of the willful acts, omissions or other conduct of the District, and/or the sole negligence of the District.

IN WITNESS WHEREOF, the DISTRICT AND CONTRACTOR have caused this Master Agreement to be executed by their respective duly authorized representatives as follows.

	Foothill-De Anza Community College District
“DESIGN PROFESSIONAL”	“DISTRICT”
By: _____	By: _____
<i>Authorized Signature</i>	<i>Authorized Signature</i>
Print Name: _____	Print Name: _____
Title: _____	Title: _____
Date: _____	Date: _____
Email: _____	Address: 12345 El Monte Road
Tax I.D. Number: _____	Los Altos Hills, CA 94022
	Date* _____
	Approved by Board of Trustees if applicable

This Agreement is not valid until signed by both Parties above.

*Board approval is required prior to commencement of services if total cost exceeds the applicable bid threshold stated in the Public Contract Code Section 20651.

Attachment A – Schematic Design (SD) Criteria

In the Schematic Design Phase the Design Professional shall provide those services necessary to prepare Schematic Design Documents consisting of drawings and other documents illustrating the general scope, scale and relationship of Project components for approval by the District. Designs will be conceptual in character and based on the requirements developed under previous phases [Pre-design, Site Analysis] and approved by the District, or on program requirements provided by the District and reviewed and agreed upon by the Design Professional. The following descriptions shall apply to those services assigned in the Schedule of Services as the responsibility of the party indicated therein.

1. Architectural Design/Documentation

These are Services during the Schematic Design Phase responding to program requirements and consisting of preparation of:

- 1.1. Conceptual site and building plans
 - Site plan should illustrate relationship between new and existing structures, traffic flow, existing and proposed topography, landscape features, roads, walks and major utility connections (typically @1 inch = 20 feet scale.)
 - Typical floor plans should be @1 inch = 16 feet scale.
 - Plans of special floors or areas @1 inch = 8 feet scale.
 - Roof plan @1 inch = 16 feet scale.
- 1.2. Preliminary sections and elevations (sketch form @ 1/6" or 1/8" scale.)
- 1.3. Preliminary selection of building systems and materials
 - Description of the Building envelope including wall systems, window types, glazing types.
- 1.4. Development of approximate dimensions, areas and volumes
- 1.5. Perspective sketch(es).
- 1.6. Study model(s)
- 1.7. Outline Specifications
- 1.8. Handicap requirements
- 1.9. Code Analysis - provide a written statement describing the methods proposed to comply with governing codes and regulations, including zoning, occupancy, life safety, fire resistance, fire protection and structural adequacy.
- 1.10. LEED Scorecard and description of sustainable design features for each prerequisite and credit included in the proposed design and plan for implementation.

2. Structural Design / Documentation

These are services during the Schematic Design Phase consisting of recommendations regarding basic structural materials and systems, analyses, and development of design solutions for:

- 2.1. A predetermined structural system w/design loads and criteria
- 2.2. Alternate structural systems

3. Mechanical Design / Documentation

These are services during the Schematic Design Phase consisting of consideration of alternate materials, systems and equipment, and development of conceptual design solutions for:

- 3.1. Energy source(S)
- 3.2. Energy conservation
- 3.3. Heating and ventilating
- 3.4. Air conditioning
- 3.5. Plumbing
- 3.6. Fire protection
- 3.7. Special mechanical systems
- 3.8. Process systems
- 3.9. General space requirements
- 3.10. Basis of Design
- 3.11. Outline Specifications

4. Electrical Design / Documentation

These are services during the Schematic Design Phase consisting of consideration of alternate systems, recommendations regarding electrical materials, systems and equipment, analyses, and development of conceptual design solutions for:

- 4.1. Power service and distribution
- 4.2. Lighting
- 4.3. Telephones
- 4.4. Fire detection and alarms
- 4.5. Security systems
- 4.6. Electronic communications
- 4.7. Special electrical systems
- 4.8. General space requirements
- 4.9. Basis of Design
- 4.10. Outline Specifications

5. Civil Design / Documentation

These are services during the Schematic Design Phase consisting of consideration of alternate materials and systems and development of conceptual design solutions for:

- 5.1. On-site utility systems
- 5.2. Off-site utilities work
- 5.3. Fire protection systems
- 5.4. Drainage systems
- 5.5. Paving
- 5.6. Outline Specifications

6. Landscape Design / Documentation

These are services during the Schematic Design Phase consisting of consideration of alternate materials, systems and equipment and development of conceptual design solutions for land forms, lawns and plantings based on program requirements, physical site characteristics, design objectives and environmental determinants.

7. Interior Design / Documentation

These are services during the Schematic Design Phase consisting of space allocation and utilization plans based on functional relationships, consideration of alternate materials, systems and equipment and development of conceptual design solutions for architectural, mechanical, electrical and equipment requirements in order to establish:

- 7.1. Partition locations
- 7.2. Furniture and equipment layouts
- 7.3. Description of finishes for typical areas, areas subject to heavy use or traffic, toilet areas, food service areas and any special finishes.

Attachment B - Design Development (DD) Criteria

Design Development Documents should consist of drawings and other documents to fix and describe the size and character of the entire Project, including architectural, structural, mechanical and electrical systems, materials, equipment and labor, safety and maintenance requirements, and energy conservation.

1. ARCHITECTURAL DESIGN / DOCUMENTATION

These services consist of continued development and expansion of architectural Schematic Design Documents to establish the final scope, relationships, forms, size and appearance of the entire Project through:

1.1. Plans, sections and elevations

1.1.1. 1/8" scale CADD (preferably) plans, including roof plan, with overall dimensions and column lines identified.

- Major elements such as entrances, elevators, toilet rooms, mechanical spaces and shafts located.
- Extent of basements (If any)
- Roof plan with mechanical penthouses or roof mounted equipment.

1.1.2. Key ACAD sections through the entire building indicating floor to floor height, ceiling height, relationship of windows and cladding, parapets, and relationship to finished grade.

- Illustrate floor relationships, construction thicknesses and profiles, vertical circulation and special features.

1.1.3. Minimum 1/8" scale, dimensioned ACAD elevations of all building facades indicating materials, systems and glazing types.

1.2. Typical construction details

1.2.1. Large scale, typical wall section(s) of each major type of wall treatment indicating basic flashing, wall composition and materials.

1.2.2. Typical window types and details.

1.2.3. Partition types and typical doors and frames including typical borrowed light conditions.

1.2.4. Typical stair construction and details.

1.2.5. Identification of any special conditions such as raised flooring, shielding requirements, automatic doors etc.

1.3. Three dimensional sketch(es) as furnished to the District

1.4. Study model(s) as prepared as a part of the project

1.5. Final materials selections

1.5.1. Identify all exterior materials

1.5.2. Interior finish schedule including ceiling heights for all major and typical spaces.

1.6. Equipment layouts

1.6.1. Special equipment types and locations

1.7. Other Information

1.7.1. Specifications -

- Draft front end and general conditions
- Draft technical sections or samples from similar jobs

1.7.2. Geotechnical Report

1.7.3. Code analysis review

1.7.4. Acoustical report (if applicable)

1.7.5. Updated program statement

1.7.6. Area/Volume statistics

1.7.7. Updated schedule

1.7.8. Updated LEED Scorecard

2. STRUCTURAL DESIGN / DOCUMENTATION

These are services during the Design Development Phase consisting of continued development of the specific structural system(s) and Schematic Design Documents In sufficient detail to establish:

2.1. Basic Structural System and Dimensions

2.1.1. Foundation system design

2.1.1.1. Sheeting & shoring requirements

- Scaled plan locating sheeting with typical details & elevations.
- Quantifiable tie-back criteria, if required.

2.1.1.2. Spread Footing I Mat Slab Design

- Scaled plan (1/8" preferred) indicating isolated footings, continuous footings, slabs on grade and foundation walls. Slab elevations and bottom of footing elevations noted.
- Schedule of isolated footings, by type, indicating size and reinforcing requirements.
- Typical continuous footing details indicating sizes and reinforcing requirements.

- Typical foundation wall & pier conditions indicating sizes & reinforcing requirements.
- Slab on grade details indicating thickness and reinforcing requirements.
- Waterproofing and foundation drainage requirements.

2.1.1.3. Pile / Caisson Design

- Scaled plan (1/8" preferred) indicating pile / caisson sizes & quantities, caps, grade beams, slabs on grade and foundations walls. Slab elevations and bottom of cap / grade beam elevations noted.
- Length of piles / caissons including amount of rock socketing.
- Type of piles with loading criteria.
- Pre-augering requirements noted.
- Casing requirements noted.
- Types and number of tests noted.
- Schedule of typical cap and grade beam designs indicating sizes and reinforcing requirements.
- Typical foundation wall & pier conditions indicating sizes & reinforcing requirements.
- Slab on grade details indicating thickness and reinforcing requirements.
- Waterproofing and foundation drainage requirements.

2.1.1.4. Slurry Wall Design

- Scaled plan (1/8" preferred) indicating slurry wall layout, slabs on grade and any additional foundation walls. Slab elevations and top of slurry wall elevations noted.
- Length of slurry wall including amount of rock socketing.
- Thickness of slurry wall with reinforcing requirements.
- Section showing guide wall requirements.
- Quantifiable tie-back criteria, if required.
- Types and number of tests noted.
- Typical foundation wall & pier conditions Indicating sizes & reinforcing requirements.
- Slab on grade details indicating thickness and reinforcing requirements.
- Waterproofing and foundation drainage requirements.

2.1.1.5. Special Foundation Systems

- Information similar to above allowing for adequate quantification & pricing.

2.1.2. Main Structural System Design

2.1.2.1. Steel Structural Systems

- Scaled plans (1/8" preferred) indicating layout of floor slabs, column lines piece type & sizes, moment connections and bracing locations. Slab elevations noted.
- Column criteria, preferably, a schedule with base & leveling plates.
- Bracing elevations with members sized.
- Girder & truss elevations with members sized.
- Criteria for curtain wall wind bracing loads and criteria for skylight Supports,
- Tie-rod & cable requirements.
- Typical connection details.
- Typical special connection detail (i.e., pipe conditions)
- Typical exterior wall sections / details.
- Typical framing @ floor & roof openings with quantity allowance.
- Typical beam opening details with quantity allowances.
- Allowances for slab depressions, equipment support, roof screen support, window washing anchorage, satellite dish support, etc.
- Slab locations, thickness and deck type / size.
- Type of deck closure relative to light gauge or bent plate material.
- Number of deck shear connectors noted.
- Spray fireproofing or concrete encasement criteria.
- Priming / painting criteria.

2.1.2.2. Cast-in Place Concrete Systems

- Scaled plans (1/8" preferred) indicating layout of floor slabs, openings, column lines, slab type & sizes and structural wall locations. Slab elevations noted.
- Column criteria, preferably, a schedule with sizes and reinforcing requirements.
- Structural wall, beams & column drop sections & details with reinforcing requirements.
- Structural girder sections & details with reinforcing requirements.
- Criteria for curtain wall wind bracing loads and criteria for skylight supports.
- Typical exterior wall sections / details.
- Typical reinforcing @ floor & roof openings with quantity allowance.
- Typical beam opening reinforcing with quantity allowances.
- Embed allowance requirements (i.e. Loading dock angles, sleeves, steel support plates, etc.)
- Slab placement criteria.
- Finishing & curing criteria.

2.1.2.3. Structural Precast Systems

- Scaled plans (1/8" preferred) indicating layout of floor slabs, openings, column lines, slab type & sizes and structural wall locations. Slab elevations noted.
- Column criteria, preferably, a schedule w/ sizes and reinforcing requirements.
- Structural floor, wall, beam sections & details with reinforcing requirements.
- Structural girder sections & details with reinforcing requirements.
- Stair element system - if precast.
- Criteria for curtain wall wind bracing loads and criteria for skylight supports,
- Typical exterior wall sections / details.
- Typical reinforcing @ floor & roof openings with quantity allowance.
- Typical beam opening reinforcing with quantity allowances.
- Embed allowance requirements (ie. Piece connections, loading dock angles, sleeves, steel support plates, etc.)
- Topping slab placement criteria.
- Finishing & curing criteria.
- Caulking criteria

2.1.2.4. Wood / Light Gauge Framing Systems

- Scaled plans (1/8" preferred) indicating layout of floor framing, openings, column lines and structural wall locations. Slab elevations noted.
- Wood species, sizes and rating requirements required for all framing elements.
- Metal stud and joist sizes and gauge.
- Typical connection details.
- Truss elevations.
- Typical exterior wall sections / details.

2.2. Final structural design criteria

2.2.1. Live load criteria should be finalized.

2.2.2. Dead loads criteria should be substantially established.

2.2.3. Wind load criteria should be finalized.

2.2.4. Special provisions for concentrated loads, openings & equipment loads should be substantially established.

2.2.5. Deflection & vibration control criteria should be established.

2.2.6. Thermal movement control should be established.

2.2.7. Subsurface waterproofing methods indicated.

2.3. Foundation design criteria

2.3.1. Soil bearing capacity.

2.3.2. Boring & test pit data.

2.3.2.1. Water table data.

2.3.2.2. Contaminated soil removal criteria.

2.3.2.3. Potential subsurface obstruction allowance established.

2.3.2.4. Potential rock / ledge removal.

2.4. Preliminary sizing of major structural components

2.4.1. Refer to this Attachment Section 2.1 'Basic Structural System and Dimensions' for requirements by systems type.

2.5. Critical coordination clearances

2.5.1. Sections at critical clearance areas with detailed dimensions.

2.6. Outline specifications or materials lists

2.6.1. Specifications are expected to indicate material and installation requirements by major structural components.

2.6.2. Typical (generic) specifications sections to be issued are as follows:

2.6.2.1. Earthwork

2.6.2.2. Cast-In-place Concrete

2.6.2.3. Structural Precast Concrete

2.6.2.4. Reinforcing

2.6.2.5. Structural Steel

2.6.2.6. Steel Joists

2.6.2.7. Metal Decking

2.6.2.8. Light Gauge Metal Framing

2.6.2.9. Metal Stairs & Railings

2.6.2.10. Rough Framing — Carpentry

2.6.2.11. Wood Trusses

3. MECHANICAL DESIGN / DOCUMENTATION

These services consist of continued development and expansion of mechanical Schematic Design Documents and development of outline specifications to establish:

3.1. HVAC System

3.1.1. Heating and cooling design load calculations

3.1.1.1. Approximate equipment sizes and capacities

3.1.2. Preliminary equipment layouts

3.1.2.1. Size, Location and routing of major ductwork

3.1.2.2. Single line diagram of branch ductwork, with sizes and capacities, piping diagrams, identify heating zones, VAV boxes etc.

3.1.3. Equipment schedule with sizes and capacities

3.1.4. Required space for equipment

3.1.5. Required chases and clearances

3.1.6. Acoustical and vibration control

3.1.7. Visual impacts

3.1.8. Energy conservation measures

3.1.8.1. Temperature control system description

3.2. Plumbing

3.2.1. Locate all plumbing fixtures including roof drains

3.2.2. Specify pipe, fixture and equipment materials

3.2.3. Locate floor drains

3.2.4. Provide sanitary and storm system riser diagrams

3.3. Fire Protection System

3.3.1. Identify fire pump requirements and size

3.3.2. Specify sprinkler system types (dry and wet)

3.3.3. Specify sprinkler head type (concealed, semi-recessed, exposed)

4. ELECTRICAL DESIGN / DOCUMENTATION

These services consist of continued development and expansion of electrical Schematic Design Documents and development of outline specifications or materials lists to establish:

4.1. Criteria for lighting, electrical and Communications systems

4.1.1. Preliminary, typical light fixture layout

4.1.2. Identify telephone, data and duplex requirements

4.2. Approximate sizes and capacities of major components

4.2.1. Specify emergency generator requirements and quantity and size of auto transfer switches

4.3. Preliminary equipment layouts

4.3.1. Provide panel and equipment schedule

4.3.2. Specify data technology system

4.4. Required space for equipment

4.5. Required chases and clearances

4.5.1. Provide one-line, riser diagram

5. CIVIL DESIGN / DOCUMENTATION

These services consist of continued development and expansion of civil Schematic Design Documents and development of outline specifications or materials lists to establish the final scope and preliminary details for on-site and off-site civil engineering work.

5.1. Site Plan showing buildings, paving walls, curbs, retaining walls and property lines.

5.1.1. Site lighting layout

5.2. Boring information

5.3. Typical sections through paving, walkways and curbs

5.4. Site drainage pattern and location of utilities and points from which services will be run to the building.

5.4.1. Indicate all underground utilities and services (sized and prosited), existing and proposed.

6. LANDSCAPE DESIGN / DOCUMENTATION

These services consist of continued development and expansion of landscape Schematic Design Documents and development of outline specifications or materials lists to establish the final scope and preliminary details for landscape work.

6.1. Landscape plan showing types and quantities of planting

6.2. Plans showing existing grades in relation to finish grades

6.3. Parking layouts

7. INTERIOR DESIGN / DOCUMENTATION

These are services during the Design Development Phase consisting of continued development and expansion of interior Schematic Design Documents and development of outline specifications or materials lists to establish the final scope and preliminary details relative to:

7.1. Interior construction of the Project

- 7.1.1. Floor plans and reflective ceiling plans drawn to 1/8" scale.
- 7.1.2. Partition types indicated and noted on plans.
- 7.1.3. Door & frame types designed and noted on schedule.
- 7.1.4. Any additional secondary framing requirements noted. (i.e. mezzanines, stages, stairs, ramps, etc.)
- 7.1.5. Interior railings indicated in plan and elevation with typical detail.
- 7.1.6. Typical interior details noted.

7.2. Special Interior design features

- 7.2.1. Large scaled plans, elevations & sections drawn for feature design elements.
- 7.2.2. Decorative flooring & ceiling patterns/ elements indicated.

7.3. Furniture, furnishings and equipment selections

- 7.3.1. Casework, millwork indicated in plan and elevation with typical details.
- 7.3.2. Equipment requirements indicated on plans.
- 7.3.3. Equipment schedules (i.e. Food service, laboratory equipment, etc.)
- 7.3.4. Note new versus existing to be re-used and any modifications necessary to adapt to new locations.

7.4. Materials and finishes and colors

- 7.4.1. Interior finishes schedule for floors, walls, ceilings & base requirements.
- 7.4.2. Door & frame schedule.
- 7.4.3. Hardware schedule or hardware sets.

Attachment C - Construction Documents (CD) Criteria

The Construction Document Phase shall consist of Drawings, Specifications and other documents setting forth in detail the construction requirements, bidding and contracting for the construction of the project based on approved Design Development Documents:

1. ARCHITECTURAL DESIGN / DOCUMENTATION

The services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Architectural construction requirements for the project. Included with the detail but not limited to:

- 1.1. Floor Plans for each floor indicating:
 - 1.1.1. Spaces fully articulated, detailed, labeled, dimensioned and numbered.
 - 1.1.2. Material finishes identified.
 - 1.1.3. Doors numbered and hardware sets shown / scheduled.
 - 1.1.4. Built-in furniture.
- 1.2. Architectural drawings shall be coordinated with the structural, mechanical and electrical drawings as well as the project specifications.

2. STRUCTURAL DESIGN / DOCUMENTATION

These services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Structural construction requirements for the project.

3. MECHANICAL DESIGN / DOCUMENTATION

These services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Mechanical construction requirements for the project.

4. ELECTRICAL DESIGN / DOCUMENTATION

These services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Electrical construction requirements for the project.

5. CIVIL DESIGN / DOCUMENTATION

These services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Civil construction requirements for the project.

6. LANDSCAPE DESIGN / DOCUMENTATION

These services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Landscape construction requirements for the project.

7. INTERIOR DESIGN / DOCUMENTATION

These services during the Construction Document Phase shall consist of the preparation of the drawings, based on the approved Design Development Documents, setting forth in detail the Interior Design requirements for the project.

8. DEVELOPMENT and PREPARATION OF THE PROJECT SPECIFICATIONS

These services describe materials, systems and equipment, workmanship, quality and performance criteria required for the construction of the Project.

9. CALCULATIONS DETERMINING DESIGN ELEMENTS

These services include the Drawings and Specifications, including structural, mechanical, electrical and other calculations confirming compliance with code-mandated or programmed requirements.

Attachment D - Estimating Standards

The Foothill De Anza Community College District Construction Program uses a standard estimating format for which all estimates shall comply. The purpose is to:

- Provide consistency between estimates prepared by different entities (e.g. Design Professional, Program Manager, Construction Manager, School Construction).
- Ensure that quantities of material developed or assumed by different estimators are consistent.
- Ensure that assumptions, exclusions, and inclusions considered by estimators are consistent with the intent of the Design Professional.
- Ensure that contingencies for design, construction and escalation assumed by different estimators are consistent.

1. ESTIMATE FORMAT

- 1.1. Provide a cover sheet matching the format of the District's budget.
- 1.2. Prepare all estimates in "present day" dollars and present the cost anticipated at time of construction, as described in item 4.
- 1.3. All plan sheets must contain the following information:
 - 1.3.1. Project Name
 - 1.3.2. Design Professional's Name
 - 1.3.3. The document date
 - 1.3.4. Sheet number
 - 1.3.5. Name of the Estimator – all estimates to be prepared by American Society of Professional Estimator (ASPE) certified estimator.
 - 1.3.6. Type of estimate (i.e. Conceptual, Schematic, Design Development or Construction Document)
- 1.4. Break down costs as follows:
 - 1.4.1. Cost in present day dollars
 - Trade costs for complete project
 - Taxes Included and Excluded
 - General Conditions
 - Overhead and profit
 - Allowances for LEED Certification if applicable
 - Allowances for special features (if not well defined)
 - Design Contingency as a % (check w/ Program Manager)
 - TOTAL present day cost
 - 1.4.2. Construction Budget
 - Multiply total present day cost times a yearly escalation factor to determine Construction Budget as defined in Agreement Section 6.2 'Project Construction Budget'. Escalation factor and construction schedule to be agreed upon by the Design Professional and District.
 - TOTAL Construction Budget
 - 1.4.3. Other Costs
 - Programmed equipment and work outside Project scope (if any)
 - Sub Total
 - Construction Contingency (5% - Check w/ Program Manager)
 - ESTIMATE TOTAL

- 1.5. Present the Estimate Summary in CSI (Construction Specifications Institute) Format used in preparation of the Project specifications. Identify major items of work within each division.
- 1.6. If Project includes renovation and addition, provide estimates for each separately. Both estimates must be prepared using the same format with quantities, unit, unit price, and the total.
- 1.7. Provide back-up sheets for each division of work to include the basic information of: Description, Quantities, Unit, Unit Price, Total.
- 1.8. Summarize the total cost for each division.
- 1.9. List project gross and assignable areas as defined in plans and Specifications and broken down by renovation versus new construction.
- 1.10. List assumptions and clarifications.
- 1.11. List allowances with descriptions, units and values.
- 1.12. List exclusions.

Attachment E - Compensation

1. COMPENSATION

Design Professional shall be compensated for actual hours incurred in providing services pursuant to a Project Assignment Amendment (PAA).

2. INVOICES AND PAYMENTS

- 2.1. During the course of providing services, Design Professional shall submit monthly billing invoices to the District for payment of the services pursuant to the Approved Service Order. Design Professional's billings shall be in such form and format as may be reasonably requested by the District and shall be specific to project and/or Approved Service Order.
- 2.2. Within thirty (30) days of receipt of an approved and complete Design Professional's invoice, the District will make payment to the Design Professional of undisputed amounts of the Approved Service Order.
- 2.3. The District may, withhold or deduct from amounts otherwise due Design Professional hereunder if Design Professional shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after Design Professional has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting there from.

3. SCHEDULE OF RATES

B. Scope of Design Professional Services – Design Phase

Services:

[Insert a description of the design services included and excluded per the Master Design Professional Agreement.]

Deliverables:

[Insert a description of the deliverables included and excluded per the Master Design Professional Agreement.]

C. Scope of Design Professional Services – Procurement Phase

Services:

[Insert a description of procurement services included and excluded per the Master Design Professional Agreement.]

Deliverables:

[Insert a description of the deliverables included and excluded per the Master Design Professional Agreement.]

D. Scope of Design Professional Services – Construction Phase

Services:

[Insert a description of construction services included and excluded per the Master Design Professional Agreement.]

Deliverables:
 [Insert a description of the deliverables included and excluded per the Master Design Professional Agreement.]

E. Scope of Design Professional Services – Close Out Phase

Services:
 [Insert a description of close-out services included and excluded per the Master Design Professional Agreement.]

Deliverables:
 [Insert a description of the deliverables included and excluded per the Master Design Professional Agreement.]

3. DESIGN PROFESSIONAL SERVICES SCHEDULE

Dates are approximate; exact dates are subject to change by the District with no impact on contract pricing or the PAA contract term.

Phase	Anticipated Start Date	Anticipated End Date

4. PAA STAFFING PLAN

A. District Contract Manager

Name:	
Department:	
Address:	
Phone:	
Email:	

B. Design Professional Contract Manager

Name:	
Title:	
Address:	
Phone:	
Email:	

C. Other Staffing

Name:	Email:

D. Consultants (if applicable)

Company:	Discipline:	Name:	Email:

E. Contract Personnel (if applicable)

Agency Name:	Area of Work:	Staff Name:	Assignment:

5. PAA COMPENSATION AND INVOICING

The District will compensate the Design Professional for providing the services and deliverables set forth in this PAA which is subject to the terms and conditions set forth in the Master Design Professional Agreement, including without limitation Section 12 and Attachment E – Compensation.

Schedule of Values (Insert Phase)	Invoice Period	Compensation Not to Exceed
	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Tasks <input type="checkbox"/> Completion of Work	\$
	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Tasks <input type="checkbox"/> Completion of Work	\$
	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Tasks <input type="checkbox"/> Completion of Work	\$

	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Tasks <input type="checkbox"/> Completion of Work	\$
	<input type="checkbox"/> Monthly <input type="checkbox"/> Completion of Tasks <input type="checkbox"/> Completion of Work	\$
Reimbursables	Per Master Design Professional Agreement, Invoice requires back up.	\$

Maximum Compensation: \$ _____

Remit all invoices to the following e-mail address:

measureinvoices@fhda.edu

With a copy to the Project/Contract Manager’s e-mail address

All invoices should include the following information:

- Measure G
- Project Number and Name:
- All items billed against Schedule of Values, with percent of completion.
- Backup billing data
- Purchase Order Number
- Construction Monitoring Invoices shall be submitted separately and independent of the design, bid phase, and construction administration services.

6. INSURANCE REQUIREMENTS PER THE MASTER DESIGN PROFESSIONAL AGREEMENT

- All insurance requirements are applicable per the Master Design Professional Agreement.
- Remit all insurance certificates to: sleedominguez@gilbaneco.com
- Additionally Insured:
 - The following entities shall be named additionally insured per the Master Design Professional Agreement:
 - Foothill – De Anza Community College District
12345 El Monte Road
Los Altos Hills, CA 94022
 - Gilbane Building Company
7 Jackson Walkway
Providence, RI 02903

7. APPROVALS

Design Professional	Foothill-De Anza Community College District
By:	By:
Name:	Name:
Title:	Title:
Date:	Date:

Foothill-De Anza Community College District
By:
Name:
Title:
Date:

This contract is not valid until signed by both parties above and approved/ratified by the Board of Trustees.