

INDEPENDENT CONSULTANT AGREEMENT FOR PROFESSIONAL SERVICES

This Independent Consultant Agreement for Professional Services ("Agreement") is made and entered into as of the _____ day of _____, 20__ by and between the Peralta Community College District, ("District") and _____ ("Consultant"), (together, "Parties").

WHEREAS, Government Code section 4526, authorizes the District to contract with and employ any person(s) for the furnishing of architecture, landscape architecture, environmental, engineering, land surveying, and construction project management services on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required; and

WHEREAS, the District duly determined that it needs some or all of the services (collectively, "Services") to be provided pursuant to this Agreement; and

WHEREAS, the Consultant is specially trained and experienced and competent to perform the architectural services required by the District, and those services are needed on a limited basis.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Consultant shall provide _____ services as further described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services").
2. **Term.** Consultant shall commence providing services under this Agreement on _____, 20__ and will diligently perform as required and complete performance by _____, 20__, unless this Agreement is terminated and/or otherwise cancelled prior to that time.
3. **Submittal of Documents.** Consultant shall not commence the Services under this Agreement until Consultant has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

- Signed Agreement
- Workers' Compensation Certification
- Insurance Certificates and Endorsements
- W-9 Form
- Other: _____

4. **Compensation.** Consultant shall not began work without a duly authorized purchase order. District agrees to pay Consultant for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed _____ Dollars (\$_____). District shall pay Consultant according to the following terms and conditions:

4.1. Payment for the Services shall be made for all undisputed amounts based upon the delivery of the work product as determined by the District. Payment shall be made within thirty (30) days after Consultant submits an invoice to the District for Services actually completed and after the District's written approval of the Services, or the portion of the Services for which payment is to be made. The schedule of deliverable Services to be produced is as follows:

- 4.1.1. _____
- 4.1.2. _____
- 4.1.3. _____
- 4.1.4. _____
- 4.1.5. _____

- 4.2. The Services shall be performed at the hourly billing rates and/or unit prices included in **Exhibit "B."** If hourly billing applies, the itemized invoice shall reflect the hours spent by Consultant in performing its Services pursuant to this Agreement.
- 4.3. If Consultant works at more than one site, Consultant shall invoice for each site separately.
- 4.4. District will withhold 2% of each billing until the Division of the State Architect certification is received for the entire project.
5. **Expenses.** District shall not be liable to Consultant for any costs or expenses paid or incurred by Consultant in performing services for District, except as follows:
 - 5.1. _____.
6. **Materials.** Consultant shall furnish, at its own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows:
 - 6.1. _____.
7. **Independent Contractor.** Consultant, in the performance of this Agreement, shall be and act as an independent contractor. Consultant understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Workers' Compensation. Consultant shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Consultant's employees. In the performance of the work herein contemplated, Consultant is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, District being interested only in the results obtained.
8. **Performance of Services.**
 - 8.1. **Standard of Care.** Consultant represents that Consultant has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Consultant's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California community college districts.

Consultant shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that Consultant or its employees may discover. Consultant shall have responsibility for discovery of errors, inconsistencies, or omissions.
 - 8.2. **Meetings.** Consultant and District agree to participate in regular meetings on at least a monthly basis to discuss strategies, timetables, implementations of services, and any other issues deemed relevant to the operation of Consultant's performance of Services.
 - 8.3. **District Approval.** The work completed herein must meet the approval of the District and shall be subject to the District's general right of inspection and supervision to secure the satisfactory completion thereof.
 - 8.4. **New Project Approval.** Consultant and District recognize that Consultant's Services may include working on various projects for District. Consultant shall obtain the approval of District prior to the commencement of a new project.

9. **Originality of Services.** Except as to standard generic details, Consultant agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Consultant and shall not be copied in whole or in part from any other source, except that submitted to Consultant by District as a basis for such services.
10. **Ownership of Data.** Pursuant to Education Code section 17316, this Agreement creates a non-exclusive and perpetual license for the District to use, at its discretion, all plans including, but not limited to, record drawings, specifications, estimates and other documents that Consultant prepared or caused to be prepared pursuant to this Agreement. Consultant retains all rights to all copyrights over designs and other intellectual property embodied in the plans, record drawings, specifications, estimates, and other documents that Consultant prepares or causes to be prepared pursuant to this Agreement.

In the event the District changes or uses any fully or partially completed documents without Consultant's knowledge or participation or both, the District agrees to release Consultant of responsibility for such changes, and shall hold Consultant harmless from and against any and all claims on account of any damages or losses to property or persons, or economic losses, arising out of that change or use, unless Consultant is found to be liable in a forum of competent jurisdiction. In the event that the District uses any fully or partially completed documents without Consultant's full involvement, the District shall remove all title blocks and other information that might identify Consultant.

11. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
12. **Disputes.** In the event of a dispute between the parties as to performance of the Services, the interpretation of this Agreement, or payment or nonpayment for work performed or not performed, the parties shall attempt to resolve the dispute in good faith. Pending resolution of the dispute, Consultant agrees it will neither rescind the Agreement nor stop the performance of the Services, but will allow determination by the court of the State of California, in the county in which the District's administration office is located, having competent jurisdiction of the dispute. Disputes may be determined by mediation if mutually agreeable, otherwise by litigation. Notice of the demand for mediation of a dispute shall be filed in writing with the other party to the Agreement. The demand for mediation shall be made within a reasonable time after written notice of the dispute has been provided to the other party, but in no case longer than ninety (90) days after initial written notice. If a claim, or any portion thereof, remains in dispute upon satisfaction of all applicable dispute resolution requirements, the Consultant shall comply with all claims presentation requirements as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of Government Code as a condition precedent to the Consultant's right to bring a civil action against the District. For purposes of those provisions, the running of the time within which a claim must be presented to the District shall be tolled from the time the Consultant submits its written claim until the time the claim is denied, including any time utilized by any applicable meet and confer process.

13. **Termination.**

- 13.1. **For Convenience by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Consultant only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by

Consultant. Notice shall be deemed given when received by Consultant or no later than three (3) calendar days after the day of mailing, whichever is sooner.

13.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

13.2.1. material violation of this Agreement by Consultant; or

13.2.2. any act by Consultant exposing the District to liability to others for personal injury or property damage.

Written notice by District shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required services from another Consultant. If the expense, fees, and/or costs to the District exceed the cost of providing the service pursuant to this Agreement, Consultant shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

14. **Indemnification.** To the furthest extent permitted by California law, Consultant shall indemnify and hold harmless the District, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (the "Indemnified Parties") from any and all claims arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant. Consultant shall, to the furthest extent permitted by California law, defend the Indemnified Parties at Consultant's own expense, from any and all Claim(s) and allegations relating thereto with counsel approved by District where such approval is not to be unreasonably withheld. Whereas the cost to defend the Indemnified Parties charged to the Architect shall not exceed the proportionate percentage of Architect's fault as determined by a court of competent jurisdiction, any amounts paid in excess of such established fault will be reimbursed by the District. Notwithstanding the previous sentence, in the event one or more defendants is unable to pay its share of defense costs due to bankruptcy or dissolution of the business, the design professional shall meet and confer with other parties regarding unpaid defense costs.

15. **Insurance.**

15.1. Consultant shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	\$ 1,000,000 \$ 2,000,000
Automobile Liability Insurance - Any Auto Each Occurrence General Aggregate	\$ 1,000,000 \$ 1,000,000
Professional Liability	\$ 1,000,000
Workers' Compensation	Statutory Limits
Employers' Liability	\$ 1,000,000

- 15.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Consultant, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001, or forms substantially similar, if approved by the District.)
- 15.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Consultant shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.
- 15.1.3. **Professional Liability (Errors and Omissions).** Professional Liability Insurance as appropriate to Consultant's profession, coverage to continue through completion of construction plus two (2) years thereafter.
- 15.2. **Proof of Insurance.** Consultant shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:
- 15.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 15.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 15.2.3. An endorsement stating that the District and its Governing Board, agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insured under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Consultant's insurance policies shall be primary to any insurance or self-insurance maintained by District. An endorsement shall also state that there shall be a waiver of any subrogation.
- 15.2.4. All policies except the Professional Liability, Workers' Compensation, and Employers' Liability Insurance Policies shall be written on an occurrence form.
- 15.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.
16. **Assignment.** The obligations of Consultant pursuant to this Agreement shall not be assigned by Consultant.
17. **Compliance with Laws.** Consultant shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Consultant shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Consultant observes that any of the Services required by this Agreement are at variance with any

such laws, ordinance, rules or regulations, Consultant shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Consultant's receipt of a written termination notice from the District.

- 17.1. **LABOR CODE REQUIREMENTS:** Consultant shall comply with all applicable provisions of the California Labor Code, Division 3, Part 7, Chapter 1, Articles 1 – 5, including, without limitation, the payment of the general prevailing per diem wage rates for public work projects of more than one thousand dollars (\$1,000). Copies of the prevailing rate of per diem wages are on file with the District.
 - 17.1.1. **Registration:** If applicable, before a public works contract can be awarded, Consultant and its subcontractor(s) shall be registered with the Department of Industrial Relations in accordance with Labor Code section 1771.1. At least one week before commencing work, Consultant shall provide to the District the name and DIR registration number for Consultant and any applicable subcontractor.
 - 17.1.2. **Certified Payroll Records:** Consultant and its subcontractor(s) shall keep accurate certified payroll records of workers and shall electronically submit certified payroll records directly to the Department of Industrial Relations weekly or within ten (10) days of any request by the District or the Department of Industrial Relations.
 - 17.1.3. **Labor Compliance:** Consultant shall perform the Services of the Project while complying with all the applicable regulations, including section 16000, et seq., of Title 8 of the California Code of Regulations and is subject to labor compliance monitoring and enforcement by the Department of Industrial Relations.
18. **Certificates/Permits/Licenses/Registration.** Consultant and all Consultant's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.
19. **Employment with Public Agency.** Consultant, if an employee of another public agency, agrees that Consultant will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
20. **Anti-Discrimination.** Consultant herein agrees to comply with the provisions of the California Fair Employment and Housing Act as set forth in part 2.8 of division 3 of the California Government Code, commencing at section 12900; the Federal Civil Rights Act of 1964, as set forth in Public Law 88-352, and all amendments thereto; Executive Order 11246; and all administrative rules and regulations found to be applicable to Consultant and all of its subcontractors. In addition, Consultant agrees to require like compliance by all of its subcontractor(s).
21. **Disabled Veteran Business Enterprises.** Pursuant to section 71028 of the Education Code and Public Contract Code section 10115, the District may have a participation goal of at least three percent (3%), per year, of the overall dollar amount expended each year by the community college district for disabled veteran business enterprises ("DVBE"). In accordance therewith, Consultant must submit, upon request by the District, appropriate documentation to the District identifying the steps Consultant has taken to solicit DVBE participation in conjunction with this Agreement, if applicable.
22. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
23. **District's Evaluation of Consultant and Consultant's Employees and/or Subcontractors.** The District may evaluate Consultant in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:

- 23.1. Requesting that District employee(s) evaluate Consultant and Consultant's employees and subcontractors and each of their performance.
- 23.2. Announced and unannounced observance of Consultant, Consultant's employee(s), and/or subcontractor(s).
24. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
25. **Confidentiality.** Consultant and all Consultant's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. Consultant understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
26. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission or electronic mail, addressed as follows:

District:

Peralta Community College District
 Department of General Services
 333 East 8th Street
 Oakland, CA 94606
 Fax: _____
 Email: _____

Consultant:

[NAME]

 _____, CA 9____
 Fax: _____
 Email: _____
 ATTN: _____

Any notice personally given or sent by facsimile transmission or electronic mail shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) calendar days after deposit in the United States mail.

27. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
28. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the county in which the District's administrative offices are located.
29. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.

30. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
31. **Provisions Required By Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
32. **Authority to Bind Parties.** Neither party in the performance of any and all duties under this Agreement, except as otherwise provided in this Agreement, has any authority to bind the other to any agreements or undertakings.
33. **Attorney's Fees/Costs.** Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.
34. **Tolling of District's Claims.** Consultant agrees to toll all statutes of limitations for District's assertion of claims against Consultant that arise out of, pertain to, or relate to contractors' or subcontractors' claims against District involving Consultant's services under this Agreement, until the contractors' or subcontractors' claims are finally resolved.
35. **Captions and Interpretations.** Paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
36. **Calculation of Time.** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
37. **Signature Authority.** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been properly authority and empowered to enter into this Agreement.
38. **Counterparts.** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
39. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

Dated: _____, 20__

Dated: _____, 20__

Peralta Community College District

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Information regarding Consultant:

License No.: _____

Registration No.: _____

Address: _____

Telephone: _____

Facsimile: _____

E-Mail: _____

Type of Business Entity:

____ Individual

____ Sole Proprietorship

____ Partnership

____ Limited Partnership

____ Corporation, State: _____

____ Limited Liability Company

____ Other: _____

Employer Identification and/or
Social Security Number

NOTE: Section 6041 of the Internal Revenue Code (26 U.S.C. 6041) and Section 1.6041-1 of Title 26 of the Code of Federal Regulations (26 C.F.R. 1.6041-1) requires the recipients of \$600.00 or more to furnish their taxpayer information to the payer. In order to comply with these requirements, the District requires Consultant to furnish the information requested in this section.

EXHIBIT "A"

RESPONSIBILITIES AND SERVICES OF INFRASTRUCTURE PROGRAM MANAGER

In connection with the Peralta Community College District's Capital Facilities Program, Infrastructure Program Manager ("Infrastructure Program Manager") will be the functional lead for managing all aspects of the District's infrastructure program on a day to day basis. The Infrastructure Program Manager shall provide professional services necessary for completing the following:

1. BASIC SERVICES

- 1.1. Provide work which shall comply with professional standards and applicable requirements of federal, state, and local law.
- 1.2. Provide work that shall comply with the District's existing Board Policies and Administrative Regulations and any revisions thereto adopted during the course of the provision of services under this Agreement.
- 1.3. Create and implement a program control and process binder, which will include the development of a quality controls process for all written communication between the program office and District staff. Program communication will include regular briefings and reports to the District, submittal of studies, responses to requests for information, and maintenance of a historical database of all communications and meeting minutes for all meetings.
- 1.4. Act as a "subject matter expert" to District staff with respect to district infrastructure regulations and requirements.
- 1.5. Organize an initial planning workshop to create baseline parameters for the infrastructure Project(s), to define overall, Project(s) strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, Infrastructure Program Manager will develop an implementation plan that identifies the various phases of the Project(s), coordination among phases, and budget and time constraints for each phase of the Project(s). The plan will include a detailed strategy, Program Budget and Program schedule as well as identification of critical events and milestone activities.
- 1.6. Establish the overall structure of the infrastructure program.
- 1.7. Prepare a infrastructure program schedule and Infrastructure spending plan for each campus.
- 1.8. Prepare methods to track and report on schedule status for each Project and for the overall Program. Maintain reporting systems for scope, sequencing, scheduling, budgets and communications for all infrastructure projects. For each Project, Infrastructure Program Manager shall develop master schedules, milestone schedules, and methods to budget and track all expenditures and shall report on same each month to the District.

- 1.9. Develop appropriate delivery methods for each Project.
- 1.10. Advise the District regarding Project delivery systems, methods, and procurement strategies. Assist with identifying, recruiting, selecting, and communicating with architects, construction managers, project inspections, and other specialty consultants as needed.
- 1.11. Lead the design management for each Project.
- 1.12. Attend all Infrastructure Program meetings called by the District; will participate as an advisor on infrastructure procedure determinations; coordinate and interface with Program auditors and the District's Chancellor, or designee.
- 1.13. Implement methods to budget and track all expenditures on the Program. Infrastructure Program Manager shall generate monthly reports to the District reflecting this information, and shall maintain the District's financial reporting systems.
- 1.14. Ensure that the appropriate participatory governance process is followed.
- 1.15. Infrastructure Program Manager will prepare quarterly reports for the Department of General Services and support the Department of General Services as required.
- 1.16. Work as the liaison between District administration and Construction Manager(s) assigned to infrastructure projects.
- 1.17. Be the focal point of all communication to and from construction manager(s), and Contractor(s).
- 1.18. Work with the District Purchasing Office on contract competitive bid processes, negotiate and recommend the award of projects.
- 1.19. Assist in the procurement of appropriate vendors to assist in the design and construction of each project.
- 1.20. Work with the District to encourage successful contractors to bid on other projects; identify/confirm problem contractors, and position the District to avoid using problem contractors on future projects.
- 1.21. Prepare and organize training of staff as needed, in order to implement the Program consistently and effectively.
- 1.22. Monitor the activities of the various design consultants, construction manager, Program professional consultants, construction progress, and contractor performance.
- 1.23. Assist the District with quality control and overall management, planning, coordination and administration of the Program and Projects to be constructed as part of the Program, interfacing with District staff of various

departments, the public, the Board, stakeholders, and representatives of outside organizations. Assist the District in evaluating and revising current procedures and developing new procedures as necessary.

- 1.24. Develop for District approval, a Program time schedule at the start of Program development that does the following:
 - 1.24.1. Provides sufficient time for bidding, and, if necessary, rebidding, some, or all of the individual bid packages;
 - 1.24.2. Coordinates and integrates the design professional(s)' design efforts with bidding schedules;
 - 1.24.3. Includes realistic activity sequences and durations, allocation of labor and materials and delivery of products requiring long lead-time procurement; and
 - 1.24.4. Takes into account the District's occupancy requirements (showing portions of the Program having occupancy priority and ongoing operational occupancy requirements).
- 1.25. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, opinions of the probable cost of construction, and other services furnished by Infrastructure Program Manager under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by District to Infrastructure Program Manager. Infrastructure Program Manager shall, without additional compensation, correct or revise any errors or omissions in materials it generates.
- 1.26. Maintain a log of all meetings, site visits or discussions held in conjunction with the work of the Projects, with documentation of major discussion points, observations, decisions, questions or comments. These shall be furnished to the District and/or its representative for inclusion in the overall Project documentation.
- 1.27. Coordinate transmittal of documents to regulatory agencies for review and advise the District of potential problems in completion of such reviews.
- 1.28. Provide documentation, pictures, and other information and assistance to the District for the District's use on a website, and as otherwise necessary, for public access to show Program status.
- 1.29. Ensure that Project Contractor(s), all subcontractor(s), Consultants, and sub-consultant(s) comply with any District-approved storm water management program that is applicable to the Project(s), at no additional cost to the District.
- 1.30. Coordinate construction management with Program controls, risk, quality, health, and safety field inspection functions.

- 1.31. Plan and implement a Program-wide risk management plan.
- 1.32. Administer claims made against the District, including investigations into claims and evaluation and settlement of claims with the guidelines set by the District.
- 1.33. Establish a procedure for collecting, evaluating, and filing documentation to support rejection or payment of claims.

2. GENERAL PROGRAM SERVICES

- 2.1. **General:** Monitor and advise the District as to all material developments on the Program and each Project. Infrastructure Program Manager shall implement with District approval reporting methods for schedules, cost and budget status, and projections for each project in the District's Program.
- 2.2. **Scheduling:** Track and report on schedule status for each project and for the overall Program. The Infrastructure Program Manager shall develop Project master schedules and milestone schedules for each project, and shall report on same each month to the District.
- 2.3. **Cost Controls:** Prepare and implement methods to budget and track all expenditures on each Project. The Infrastructure Program Manager shall generate monthly reports to the District reflecting this information.
- 2.4. **Communications to Board:** The Infrastructure Program Manager may be required to attend Board meetings, and to provide updates at each meeting.

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EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

The following Extra Services to this Agreement shall be performed by Infrastructure Program Manager if needed and requested by District as indicated in the Agreement:

1. Providing services required because of significant documented changes in the Program initiated by the District including, but not limited to, size, quality, complexity, or the District's schedule, or method of proceeding with infrastructure projects for the District's facilities.
2. Providing consultation regarding the repair or replacement of work damaged by fire or other causes and furnishing services required in connection with replacement of such work.
3. Providing services made necessary by the default of contractor(s), or by major defects or deficiencies in the work of the contractor(s), or by failure of performance of the District's consultants, or in the absence of a final Certificate of Payment, more than sixty (60) days after the date of completion of work on the project involved.
4. Providing surveys relative to future facilities, systems or equipment.
5. Preparation of applications and supporting documents for governmental grants and permits other than as required in this Agreement.
6. Seeking variances or changes to agency guidelines on behalf of the District when so directed by the District.
7. Preparing to serve or serving as a witness in connection with any public hearing, dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of Infrastructure Program Manager or where the Infrastructure Program Manager is a party thereto.
8. Performing technical inspection and testing.
9. Providing other services not otherwise included in this Agreement and not customarily furnished in accordance with the generally accepted scope of a infrastructure program management practice.

The rates identified in the Fee Schedule attached to **Exhibit "D"** include overhead, administrative cost, and profit and shall be utilized in arriving at the fee for Extra Services.

EXHIBIT "C"

SCHEDULE OF WORK

Provide oversight and coordination for all districtwide infrastructure initiatives including, but not limited to:

1. Program scheduling and program budgeting.
2. Manage sustainability infrastructure planning and implementation.
3. Infrastructure master planning updates and revisions.
4. Infrastructure master planning coordination and implementation as related to the District's facilities master plans.
5. District Infrastructure standards.

Coordinate infrastructure work across the District's four campuses and administrative office, in conjunction with stipulated, District staff as selected by the District.

90 Day Projects for Campuses

Keyless Entry Project

Ventilation Project

Fire Alarm Project

Other:

As directed by District.

EXHIBIT "D"

FEE SCHEDULE

Compensation

1. The Infrastructure Program Manager's fee set forth in this Agreement shall be full compensation for performance of those Services set forth in Exhibit "A" including, without limitation, all costs for personnel, travel within two hundred (200) miles of the Project location (travel reimbursements must be approved by District prior to travel), offices, per diem expenses, office supplies, printing, providing, or shipping of deliverables in the quantities set forth in **Exhibit "A."** The Parties acknowledge and agree, in general, that the Program has an existing inventory (i.e., offices, computers and peripherals, printers, fax machines, photocopy equipment, etc.) and significant expenditures in these areas are not anticipated.
2. The compensation shall be as set forth in the Agreement, including all billed expenses. No compensation will be paid or due, without advance written approval of the District.

Method of Payment of Basic Services

1. Infrastructure Program Manager shall submit monthly invoices on a form and in the format approved by the District.
2. Infrastructure Program Manager shall submit these invoices in duplicate to the District via the District's authorized representative.
3. Infrastructure Program Manager shall submit to District on a monthly basis documentation showing proof that payments were made to Infrastructure Program Manager's consultants, sub-consultants, and/or subcontractors.
4. Upon receipt and approval of Infrastructure Program Manager's invoices, the District agrees to make payments of undisputed amounts within sixty (60) days of receipt of the invoice as follows:

Format and Content of Invoices

1. Infrastructure Program Manager acknowledges that the District requires Infrastructure Program Manager's invoices to include detailed explanations of the Services performed. Infrastructure Program Manager will develop a format that is acceptable to the District that will include sufficient detail to document tasks and scope. Infrastructure Program Manager will keep timecards of employees for purposes of an audit at the District's request, but those timecards are not required to be submitted with invoices.

Hourly Rates for Extra Services

1. The following rates, which include overhead, administrative cost and profit, shall be utilized in arriving at the fee for Extra Services and shall not be changed for the term of the Agreement. Infrastructure Program Manager shall bill in quarter-hour increments for all Extra Services.

[INCLUDE INFRASTRUCTURE PROGRAM MANAGER'S RATE SCHEDULE FOR PERSONNEL]

2. The mark-up on any approved item of Extra Services performed by sub-consultant(s) or subcontractor(s) shall not exceed five percent (5%).