

**SANTA MONICA UCLA MEDICAL CENTER – MERLE NORMAN PAVILION  
FLOORS 2, 4 AND 5 | INFRASTRUCTRE AND RENOVATION**

REQUEST FOR QUALIFICATIONS

EXECUTIVE ARCHITECT

PROJECT NUMBER: 944109.01

SEPTEMBER 2022

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## ATTACHMENTS (Appropriate attachments may be used as necessary for submittal)

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## ADDENDUM NUMBER 1 TO THE REQUEST FOR QUALIFICATIONS

UCLA Request for Qualifications  
Santa Monica UCLA Medical Center Merle Norman Pavilion Floors 2,4 and 5 Infrastructure and  
Renovation: Executive Architect  
Project Number: 944109.01  
September 2022

The following changes, additions, or deletions shall be made to the following documents as indicated, and all other conditions shall remain the same as of September 19, 2022:

### I. ADVERTISEMENT FOR EXECUTIVE ARCHITECT

#### CHANGING:

Responses to the RFQ are due by **10:00 a.m. on Wednesday, September 29, 2022**. A shortlist of firms will be determined by a screening committee; further steps in the selection process will be at the selection committee's discretion.

#### TO:

Responses to the RFQ are due by **10:00 a.m. on Thursday, September 29, 2022**. A shortlist of firms will be determined by a screening committee; further steps in the selection process will be at the selection committee's discretion.

### III.C. RESPONDING TO THIS REQUEST FOR QUALIFICATIONS

#### CHANGING:

- **10:00 a.m. on Wednesday, September 29, 2022**. RFQ submittals are due at UCLA Capital Programs.

#### TO:

- **10:00 a.m. on Thursday, September 29, 2022**. RFQ submittals are due at UCLA Capital Programs.

### III.E. RESPONDING TO THIS REQUEST FOR QUALIFICATIONS

#### CHANGING:

#### DELIVERING RFQ RESPONSES TO UCLA CAPITAL PROGRAMS

To be considered for this project, provide your materials either via file sharing method or Attachment emailed solely to [Lmartinez@capnet.ucla.edu](mailto:Lmartinez@capnet.ucla.edu), in PDF format of the RFQ submittal documents as outlined above in section III. Before or **10:00 a.m. on Wednesday, September 29, 2022**. (Note: Outlook sets a maximum limit of 20MB for every email attachment). Each Request for Qualifications (RFQ) submittal is vital to UCLA. Therefore, please allow sufficient time for the submittal transmission or transmission delay to ensure that UCLA receives all RFQs by or before 10:00 a.m. (PST) deadline. Any submittals received after 10:00 a.m. (PST) deadline, UCLA will not accept.

**TO:**

**DELIVERING RFQ RESPONSES TO UCLA CAPITAL PROGRAMS**

To be considered for this project, provide your materials either via file sharing method or Attachment emailed solely to [Lmartinez@capnet.ucla.edu](mailto:Lmartinez@capnet.ucla.edu), in PDF format of the RFQ submittal documents as outlined above in section III. Before or **10:00 a.m. on Thursday, September 29, 2022**. (Note: Outlook sets a maximum limit of 20MB for every email attachment). Each Request for Qualifications (RFQ) submittal is vital to UCLA. Therefore, please allow sufficient time for the submittal transmission or transmission delay to ensure that UCLA receives all RFQs by or before 10:00 a.m. (PST) deadline. Any submittals received after 10:00 a.m. (PST) deadline, UCLA will not accept.

**END OF ADDENDUM NUMBER 1**

## II. ADVERTISEMENT FOR EXECUTIVE ARCHITECT

UCLA requests a written response to this Request for Qualifications (RFQ) for the purpose of selecting an Executive Architect for the Santa Monica UCLA Medical Center, Merle Norman Pavilion (SMUMC MNP) Floors 2, 4 and 5 Infrastructure and Renovation Project (UCLA Project #944109.01). The proposed project is at the Santa Monica UCLA Medical Center within the Merle Norman Pavilion, located at 1250 16th Street, Santa Monica, CA 90404. The MNP is a 6-story+basement, Type I construction, 177,587 GSF hospital building, built under 1979 California Building Code.

The project involves architectural and mechanical, electrical, and plumbing upgrades/improvements, and anchorage of non-structural elements, to approximately 72,000 SF of existing space in the Merle Norman Pavilion on multiple floors. The project will complete several initial early studies, to include: evaluation of anchorage of non-structural elements, and make recommendations and provide design for the updating of all these elements within the subject scope, in order to bring the entire MNP building up to NPC4 rating; a study to determine condition of MEP infrastructure, with recommendations and designs for repair/improvements; and recommendations for updated finishes throughout the project area. The project may also include repairs to exterior windows.

Responses to this RFQ should demonstrate extensive knowledge of and experience with phased structural, architectural, and MEP upgrades in occupied, licensed settings. Submittals should include specific examples of projects completed in occupied patient care settings. Project experience must also demonstrate familiarity with applicable codes and regulations, including California Building Code, Department of Health Care Access and Information (HCAI), NFPA, Department of Public Health requirements (Title 22), National Institute for Occupational Safety and Health (NIOSH), and Americans with Disabilities Act (ADA). The renovations shall comply with the University of California Policy on Sustainable Practices to achieve a USGBC LEEDTM "Silver" certification at a minimum, and shall strive to achieve certification at a USGBC LEED "Gold" rating or higher, whenever possible within the constraints of program needs and budget parameters. The construction cost for the project is anticipated to be \$30 - \$40 million depending on the agreed-upon scope of work and pending further study.

The University has not yet determined a delivery method for this project but may include either CMAR, or Design/Bid/Build. Upon completion of the DPP, the Executive Architect will serve as the architect of record and manage and coordinate all design and construction document preparation tasks and construction administration responsibilities. The Executive Architect will also assist the University in securing Agency review approvals.

The final selection and appointment of the Executive Architect is contingent upon project approval by the University of California Board of Regents or their delegated authority.

The complete RFQ packet will be available at <http://www.capitalprograms.ucla.edu/Contracts/RFQProjects> on **Wednesday, September 7, 2022**. Responses to the RFQ are due by **10:00 a.m. on Wednesday, Thursday, September 29, 2022**. A shortlist of firms will be determined by a screening committee; further steps in the selection process will be at the selection committee's discretion.

Every effort will be made to ensure that all persons have equal access to contracts and other business opportunities with the University within limits imposed by law or University policy. Each Candidate Firm is required to show evidence of its equal employment opportunity policy.

**Peter E. Hendrickson, AIA**

Associate Vice-Chancellor  
Design and Construction



UCLA Capital Programs  
1060 Veteran Avenue | Box 951365  
Los Angeles, CA 90095-1365

**For questions related to this RFQ, please contact:**

Michael Grant-Martin  
UCLA Capital Programs, Design, and Construction  
Senior Project Manager  
E: Mlgrant@capnet.ucla.edu  
T: 310-977-6953

## **II. PROJECT INFORMATION AND REQUIREMENTS**

### **A. PROJECT INFORMATION**

#### **Existing Facility Description:**

The proposed project is located in the Merle Norman Pavilion (MNP) at Santa Monica UCLA Medical Center (SMUMC). The MNP is an early 'wing' built in 1987 and is a part of the larger 509,892 GSF SMUMC Hospital Facility that opened in its present form for patient occupancy in 2012. This 2012 Addition is a traditional style structure with Mediterranean Revival brick and sandstone veneer detailing, designed by Robert Stern. It is an 8-story plus one basement level and penthouse, over 75' to highest occupiable level, designed to 1998 CBC to 1998 CBC based on the 1994 UBC. These 2012 Addition Buildings maintain a HCAI seismic rating of Structural Performance Category (SPC)-5 and Non-Structural Performance Category (NPC)-4.

#### **Project Information:**

The Executive Architect selected for the proposed project will evaluate, identify and provide design solutions to renovate existing spaces on the 2<sup>nd</sup> (24,564 GSF, 26 licensed beds), 4<sup>th</sup> (25,771 GSF, 32 licensed beds), and 5<sup>th</sup> (21,239 GSF, 36 licensed beds) floors of the MNP while minimizing impact to census and patient care. The RFQ submittal should present as close as a possible experience similar to the described size and character of this scope of work.

#### **Proposed Scope of Work**

The Consultant will evaluate detailed space requirements and develop Architectural and building systems criteria that respond to the functional needs expressed by the University. Through an interactive approach, the Consultant will collect and analyze information from several UCLA sources as directed by Capital Programs.

The scope includes a refresh of patient rooms and public corridors on all three floors. Improvements may include but are not limited to flooring, tile, fixtures, lighting, diffusers, casework, headwalls, ceiling grid, ceiling tile, doors, window treatments, crash rails, wall coverings, wall cladding, privacy curtains, signage, art, and furniture.

A refresh study of the 2<sup>nd</sup> floor post-partum space has been completed to bring The Birth Center up to a more competitive level of interior design with a healing "spa" concept that connects to a regional beach feel. While the goal is to standardize finishes and FFE as much as possible throughout the hospital, the palette for the 2<sup>nd</sup> floor is a departure from the standard traditional/neutral palette for the SMUMC to try to capture more market share as a "destination" place to give birth.

The 4<sup>th</sup> and 5<sup>th</sup> floors may follow the standard neutral finish palette developed for the recently improved Medicine/Surgery unit on the A-Level of the Facility, or consider establishing a double standard of finishes for the MNP based on the finishes for the 2<sup>nd</sup> floor and the general style of building architecture.

The design of the patient rooms should evaluate as-built ADA conditions to confirm upgrades triggered by Title 24.

The project should include identifying and incorporating HCAI NPC-4 upgrades for the three floors, including staff/support space. The evaluation consists of, but is not limited to, reviews of above-the-ceiling infrastructure supports, medical equipment, and cabinet supports. Upgrades must be complete by January 1, 2030.

The scope of work may also include coordinating separate projects to install a new nurse call system and upgrade smoke detectors.

The project may also include an evaluation of existing infrastructure and recommend cost/phasing implications of upgrading terminal devices or piping with the renovation work. The recommendation should consider the age of equipment, remaining useful life, cost, ROI, phasing, and impacts of replacement if postponed. Components may include sanitary sewer piping, domestic chilled and hot water piping, steam and steam condensate piping, reheat coils/terminal boxes, pumps, DDC controls to replace pneumatic HVAC, LED lighting, and wireless clocks, and windows/flashing/stucco. Selected Design professionals may suggest and recommend preliminary and focused independent professional services studies on investigating the existing conditions of these systems.

**Pre-design Phase:**

A pre-design study phase will develop the basic project scope to determine the optimal project phasing, schedule, and cost. The hospital frequently operates at the maximum census, sometimes requiring the activation of shadow beds. Each day a patient room is not available significantly impacts the hospital's ability to meet the community's healthcare needs. The study should examine the cost and time impacts of various approaches to perform combinations of refresh, infrastructure, and NPC4 upgrades and the implications for ongoing patient care. Considerations include maintaining services to adjacent units, minimizing noise and dust impacts, and coordinating with a separate ongoing, phased project to renovate a fully operational Operation Room unit on the 3<sup>rd</sup> floor with congested, hard-lid ceilings. After the pre-design phase, UCLA Health will evaluate recommended options, considering the cost, phasing, schedule, and patient care impact, to determine the final program which best addresses the hospital's needs.

The project will be designed to meet the applicable codes, California Building Code, Department of Health Care Access and Information (HCAI) (OSHPD 1), NFPA, Department of Public Health requirements (Title 22), National Institute for Occupational Safety and Health, National Institute for Occupational Safety and Health (NIOSH), and Americans with Disabilities Act (ADA).

**Sustainable Design:**

The project shall meet the requirements and intent of the *University of California Regent's Policy on Sustainable Practices* concerning green building design and energy efficiency. The project requirement is to achieve a USGBC LEED™ "Silver" certification at a minimum. It will strive to achieve a USGBC LEED™ "Gold" rating or higher, whenever possible, within the constraints of program needs and standard budget parameters, with the architect's documentation submitted to the US Green Building Council. The University also has set a goal to outperform the required provisions of the California Energy Code (Title 24) energy efficiency standards by at least 20 percent.

**B. ROLE OF THE ARCHITECT**

The Executive Architect will initiate a pre-design study and prepare a Detail Project Program (DPP) and supporting construction cost estimate to be used as a design document for this project. The University reserves the right to defer negotiations concerning services other than pre-design studies until the completion of the pre-design phase, Detailed Project Program (DPP), and confirmation of the construction delivery model are approved.

The Executive Architect will serve as the architect-of-record and manage and coordinate all design and construction document preparation tasks and construction administration responsibilities. The Executive Architect will also assist the University in securing Agency review approvals. Based on qualifications presented throughout this process, UCLA will select the firm best able to serve as Executive Architect for this proposed project.

**C. CODE REQUIREMENTS**

The design and construction of the University of California, Los Angeles building projects must conform to federal and state building codes and standards, including the California Code of Regulations and the Americans with Disabilities Act. The University is generally not subject to local jurisdictions' building codes; however, the design and construction of utility connections and fire/life safety systems may require



coordination with these jurisdictions. Refer to the Supplemental Requirements for the Executive Design Professional Agreement (Attachment F) for additional requirements. Construction documents must be reviewed and approved by the Office of the State Fire Marshal and the Division of the Campus Building Official.

**D. AGREEMENT AND CONTRACT REQUIREMENTS**

All architectural design services to be provided by the Executive Architect shall be under the following standard University Agreement and Contract documents, which have been approved by the Office of General Counsel to The Regents.

**1. Documents**

- Attachment E Standard Professional Services Agreement
- Attachment F University Standard Form of Executive Design Professional Agreement (Between The Regents of the University of California and the Design Professional)-with all exhibits and General Conditions and Supplementary Conditions (of the Design/Bid/Build Construction Contract)
- Attachment G University Standard Form of Executive Design Professional Agreement for CM@Risk Delivery (Between The Regents of the University of California and the Design Professional)-with all exhibits and the General Conditions and Supplementary Conditions (of the CM@Risk Construction Contract)

**2. Insurance Limits for Design Services (Architect/Engineer)**

The Executive Architect shall obtain and maintain the following insurance coverage: Comprehensive-Form or Commercial-Form General Liability Insurance, Business Automobile Liability Insurance, Professional Liability Insurance, and Workers' Compensation. If the Executive Architect does not currently have coverage under the University's requirements, evidence shall be submitted indicating that such coverage will be in place before executing the Executive Design Professional Agreement. Insurance limits are required per the following table:

**Capital Programs Insurance Limits for Design Services (Architect/Engineer)**

<b>General Liability</b>	
Each Occurrence – Combined Single Limit for Bodily Injury & Property Damage	\$2,000,000
Products-Completed Operations Aggregate	\$2,000,000
Personal & Advertising Injury	\$2,000,000
General Aggregate	\$2,000,000
<b>Business Auto Liability</b> – Each Accident – Combined Single Limit for Bodily Injury & Property Damage	\$1,000,000
<b>Workers Comp &amp; Employers Liability</b>	As required by Federal & State of Calif. Law \$1,000,000 for Employers Liability
<b>Professional Liability for Pre-Design work</b>	
Each Claim	\$2,000,000
General Aggregate	\$2,000,000

**3. Equal Opportunity Employment**

The Executive Architect shall show evidence of a company's Equal Opportunity Employment policy and company compliance with applicable federal law pertaining to Equal Opportunity Employment.

### III. RESPONDING TO THIS REQUEST FOR QUALIFICATIONS

Please comply with the following requirements in preparing responses to this RFQ; *responsiveness to these instructions will be considered an indication of the responsiveness of the prospective Consultant:*

#### A. FORMAT

All submittal materials shall be in 8 ½" x 11" format, preferably in portrait orientation. Materials may be submitted in PDF format either via file-sharing or pdf attachments, emailed to [Lmartinez@capnet.ucla.edu](mailto:Lmartinez@capnet.ucla.edu) (note: Outlook sets a maximum limit of 20MB for every email attachment). Clearly label submittals with the UCLA project name(s) and project number(s). A table of contents shall be included.

Tabbed dividers should separate and identify the response items described below in section *III.B*, numbered or titled.

Submittals should be limited to the sections and items identified in *III.B* below. Although they are **not encouraged**, any additional materials submitted at the discretion of the submitting firm, such as standard brochures, **must be submitted separately** from the main submittal and marked clearly. Failure to comply with this requirement may result in disqualifying the entire submittal.

#### B. RESPONSE ITEMS

The qualifications submittal should contain the following items:

**Cover:** Include the project name (**Santa Monica UCLA Medical Center Merle Norman Pavilion, Floors 2,4 and 5 Infrastructure and Renovation, Project # 944109.01**), September 2022, and identify that the submittal is a statement of qualifications, and identify the firm submitting the response (with the contact information provided either on the cover, letter of interest, or both).

**Letter of Interest:** Provide a concise, preferably one-page letter expressing the prospective Executive Architect's interest in the project and appropriate qualifications. The letter of interest, cover, or both should provide contact information for the firm, including a contact email address for the firm's principal.

**Table of Contents:** In front of the first tab, following the letter of interest.

#### [Tab 1] Statement of Qualifications (SOQ) form (Attachment B)

Complete and submit a Statement of Qualifications (SOQ) form (Attachment B). All listed projects should have been undertaken within the last ten (10) years.

#### [Tab 2] Relevant Experience (maximum 16 pages total)

Include project descriptions and illustrations of the five projects listed in Attachment B and other relevant projects at your discretion, but not more than 16 pages total. *Clearly label the work's location and dates, identify the firms and/or personnel responsible in each case, and their relationships with the project team.* Standard "cut sheets" may not fully satisfy this requirement.

#### [Tab 3] Applicant's Qualifications

Identify key staff that will work on the project and describes their roles. Include *brief* descriptions (one paragraph or a shortlist of bullet points) of their relevant qualifications and background. Identify the architect and sub-consultants as part of the team proposed (team members and firms), and include an organization chart. A concise presentation of this material is strongly encouraged.

The University anticipates that the proposed project will require the Executive Architect to provide the services of external sub-consultants or professional expertise from its staff in at least the following disciplines:

- Structural Engineering

- Mechanical, Electrical & Plumbing Engineering
- Lighting
- Medical Equipment Planning
- Specification Writing
- Cost Estimating

Other sub-consultants may be required for this project. (1) Identify each proposed sub-consultant by company name and discipline. (2) Indicate each sub-consultant address, telephone number, and contact person. (3) Provide a resume for each proposed sub-consulting firm.

SOQ (Attachment B) forms do not need to be submitted for sub-consultants in this initial qualifications submittal. The University reserves the right to approve or reject all external sub-consultants or internal staff performing consulting services proposed by the Executive Architect during or after the selection process.

**[Tab 4] UCLA Design Professional Business Information Form: Attachment D**

Complete and sign the Design Professional Business Information Form (Attachment D), including the Self-Certification statement.

**[Tab 5] Client References, Recommendation Letters, and Client Testimonials**

List three to five additional references not identified in Attachment B, item 8 for completed projects of similar size, scope, and complexity. Include a name, title, address, telephone number, and email address. Include applicable letters of recommendation or client testimonials with contact information.

**[Tab 6] Litigation History**

List and describe all instances in the last five (5) years where the client initiated a project-related arbitration and/or litigation against your firm.

**C. SELECTION SCHEDULE**

Under established UCLA procedures, a screening committee will review all submittals in response to the RFQ and determine a shortlist of firms to refer to the selection committee. The selection committee will evaluate further selection procedures, which may include interviews at a time to be determined. The anticipated selection process schedule is as follows:

- **Wednesday, September 7, 2022.** The complete request for qualifications (RFQ) packet will be available at [www.capitalprograms.ucla.edu/Contracts/RFQProject](http://www.capitalprograms.ucla.edu/Contracts/RFQProject).
- **10:00 a.m. on ~~Wednesday~~, Thursday, September 29, 2022.** RFQ submittals are due at UCLA Capital Programs.
- A screening committee will review these responses and recommend a limited number of firms to the selection committee for further consideration under University of California procedures. Interviews are currently anticipated to be scheduled for **Mid-October, 2022.**

**D. SELECTION OF EXECUTIVE ARCHITECT**

The criteria for UCLA review of the submitted proposals and selection of the Executive Architect are provided in the Selection Criteria (Attachment A).

UCLA will negotiate the Executive Design Professional Agreement with the selected Executive Architect for the project. Fees for basic services are intended to be based on the UC fee guidelines (Attachment H). Pending successful negotiations, UCLA intends to complete the EDPA with the Executive Architect. If negotiations are unsuccessful, UCLA reserves the right to negotiate with other interviewed applicants. Before executing the Executive Design Professional Agreement, the selected firm shall assist UCLA in

completing the Project Report on Equal Opportunity in the Selection of Design Professionals (Attachment C) and submit a Certificate of Insurance confirming that the coverage required by UCLA has been obtained.

**E. DELIVERING RFQ RESPONSES TO UCLA CAPITAL PROGRAMS**

To be considered for this project, provide your materials either via file sharing method or Attachment emailed solely to [Lmartinez@capnet.ucla.edu](mailto:Lmartinez@capnet.ucla.edu), in PDF format of the RFQ submittal documents as outlined above in section III. Before or **10:00 a.m. on ~~Wednesday~~, Thursday, September 29, 2022**. (Note: Outlook sets a maximum limit of 20MB for every email attachment). Each Request for Qualifications (RFQ) submittal is vital to UCLA. Therefore, please allow sufficient time for the submittal transmission or transmission delay to ensure that UCLA receives all RFQs by or before 10:00 a.m. (PST) deadline. Any submittals received after 10:00 a.m. (PST) deadline, UCLA will not accept.



UCLA Capital Programs  
Attention: Liliana Martínez  
[Lmartinez@capnet.ucla.edu](mailto:Lmartinez@capnet.ucla.edu)

*All material submitted becomes the property of UCLA and will not be returned to the submitting firms.*

## **SELECTION CRITERIA: ATTACHMENT A**

*Note: Not all items below will be weighted the same by the Screening and Selection Committees.*

1. Relevant Project Experience. Applicant demonstrates adequate and meaningful experience with projects of similar/comparable type and scope. Preference may be given to applicants with the University of California or other university work. Their relevant project experience is with the same project team submitted for the proposed project.

Include relevant programming projects that demonstrate:

- Completed campus programming studies.
  - Expertise in working with campuses in an urban setting.
  - The ability to manage and integrate the expertise of a wide range of consultants.
  - A clear communication strategy, comprehensive programming, cost estimating process, and the ability to organize and synthesize multiple stakeholders' viewpoints.
  - Translation of space needs into recommended physical solutions.
2. Design Ability. Applicant's demonstrated commitment to design excellence and ability to achieve high-quality functional, technical, aesthetic, and economic design for similar/comparable projects. Evaluation of prospective Design Professional teams will include experience in and understanding sustainable design practices.
  3. Affordability. Applicant's demonstrated success in producing well-designed and affordable buildings. Provide examples of experience with similar construction types.
  4. Responsiveness to Project Requirements. Applicant successful completion of similar/comparable building projects consistent with program, budget, schedule, and technical requirements. Evaluation of prospective Design Professional teams will include consideration of responsiveness to project requirements and clients on previous projects and the quality of the relationships maintained throughout these projects. Compliance with RFQ instructions, interview requirements, and other aspects of the selection process indicates responsiveness.
  5. Project Team Members' Qualifications. Applicant demonstrates relevant project experience, availability, and capability of proposed vital staff members.
  6. Sub-consultants' Qualifications. Demonstration of relevant project experience and capability of applicant's consultants.
  7. Management and Document Production Capability: Applicant's demonstrated success in providing comprehensive project management services and project team coordination, producing superior quality construction documents, and providing prompt and effective construction phase services.
  8. Client Responsiveness. Applicant's demonstrated success in establishing effective working relationships with client capital projects, administrative and technical staff, user representatives, client consultants, construction managers, and contractors.
  9. Proximity to Project. The proximity of the applicant's office to UCLA or demonstrated ability to provide high-quality Executive Architect services from a non-local office.
  10. Equal Opportunity Employment. Applicant demonstrates a company Equal Opportunity Employment policy and compliance with applicable federal law pertaining to Equal Opportunity Employment. The University follows a policy of equal opportunity in University business contracting.

**STATEMENT OF QUALIFICATIONS: ATTACHMENT B**

1. Firm Name: \_\_\_\_\_

2. Business Address: \_\_\_\_\_  
 \_\_\_\_\_

3. Year Firm Established: \_\_\_\_\_ Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_ Email: \_\_\_\_\_

4. Type of Organization (Check one):

a. Sole Proprietorship ( ) b. Partnership ( ) c. Corporation ( ) d. Joint Venture ( )

5. Principals (P) and Associates (A) (Check "P" or "A" for each) who would work on this project:

	NAME	P	A	DEGREE OR CERTIFICATE	INSTITUTION
a.					
b.					
c.					
d.					
e.					
f.					
g.					

6. Current number and past five-year average number of staff employed in the applicant's office where key staff for the proposed project(s) are located.

		Current	5-year
a.	Principal Architects	_____	_____
b.	Staff Architects	_____	_____
c.	Other Professional Staff	_____	_____
d.	Technical support	_____	_____
f.	Clerical	_____	_____
g.	Administrative	_____	_____

7. List five (5) significant projects constructed within the past ten (10) years that demonstrate the applicant's experience with projects similar to the proposed project.

PROJECT	OWNER & CONTACT	YEAR	CONSTR. COST
i.			
ii.			
iii.			
iv.			
v.			

8. References:

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_

By (name and signature): \_\_\_\_\_ Date: \_\_\_\_\_

**PROJECT REPORT ON EQUAL OPPORTUNITY IN THE SELECTION OF DESIGN PROFESSIONALS:  
 ATTACHMENT C**

***For your information, only***

The facility must complete this form for each design agreement executed for reporting purposes. Maintain these reports in a separate file at the facility.

1. Campus/facility\_\_\_\_\_ Date\_\_\_\_\_
2. Project Name/Number\_\_\_\_\_
3. Date of execution of Agreement\_\_\_\_\_
4. Major\_\_\_\_ Minor\_\_\_\_ Capital Improvement Project\_\_\_\_ Maintenance Project\_\_\_\_
5. Estimated Total \$ amount of construction of project\_\_\_\_\_
6. Estimated total \$ amount of design professional fees of project\_\_\_\_\_
7. Design professional selected\_\_\_\_\_ Address\_\_\_\_\_
8. The selected design professional is a SBE\_\_\_\_, DBE\_\_\_\_, WBE\_\_\_\_, DVBE\_\_\_\_  
None of the above\_\_\_\_\_
9. Attached Self-Certification Design Professional form for a firm self-certifying as SBE, DBE, WBE, or DVBE.
10. Date:\_\_\_\_\_

\_\_\_\_\_  
 Name of Responsible Administrator  
 submitting report

\_\_\_\_\_  
 Title of Responsible Administrator  
 submitting report

Selection committee:  
 Names of Members

Total Number of Members\_\_\_\_\_  
 Job Titles

- a. \_\_\_\_\_
- b. \_\_\_\_\_
- c. \_\_\_\_\_
- d. \_\_\_\_\_

- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

If your firm marks "None of the above" on Item #8, please list the SBE, DBE, WBE, and DVBE outreach activities for this project

\_\_\_\_\_

Date:\_\_\_\_\_

\_\_\_\_\_  
 Name of Responsible Administrator  
 submitting report

\_\_\_\_\_  
 Title of Responsible Administrator  
 submitting report





**SELF CERTIFICATION:**

Completion is a requirement for the Contractor, and each Subcontractor indicated on the Subcontractor Information Report. OR for the Consultant and each Sub-consultant.

**Indicate all Business category(ies) that apply by initialing next to the appropriate category(ies):**

\_\_\_\_\_ **Small Business Enterprise (SBE)** - an independently owned and operated concern certified, or certifiable, as a small business by the Federal Small Business Administration (SBA). (Size standards by Standard Industrial Classification codes required by the Federal Acquisition Regulations, Section 19.102, may be found at <http://www.sba.gov/content/table-small-business-size-standards>.) The eligibility requirements for California contracting purposes are on the [Department of General Services website](http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx) at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx>. The University may rely on written representation by the vendors regarding their status.

\_\_\_\_\_ **Disabled Veteran Business Enterprise (DVBE)** - A business that is at least 51% owned by one or more disabled veterans or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. A Disabled Veteran is a veteran of the military, naval, or air service of the United States with a service-connected disability who is a resident of the State of California. To qualify as a veteran with a service-connected disability, the person must be currently declared by the United States Veterans Administration to be 10% or more disabled due to service in the armed forces.

\_\_\_\_\_ **Disadvantaged Business Enterprise (DBE)** - a business concern that is at least 51% owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities. Economically disadvantaged individuals - Are socially disadvantaged individuals whose ability to compete in the free private enterprise system has been impaired due to diminished capital and credit opportunities compared to others in the same business area who are not socially disadvantaged. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans) are to be considered socially and economically disadvantaged.

\_\_\_\_\_ **Women-Owned Business Enterprise (WBE)** - a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

\_\_\_\_\_ **None of the above categories apply.**

**SELF CERTIFICATION: (continued)**

I hereby certify under penalty of perjury under the laws of the State of California that I have read this certification and know the contents thereof, and that the business category indicated above reflects the true and correct status of the business in accordance with Federal Small Business Administration criteria and Federal Acquisition Regulations, FAR 19 pertaining to small, disadvantaged, women-owned, and disabled veteran business enterprises. I understand that falsely certifying the status of this business, obstructing, impeding or otherwise inhibiting any University of California official who is attempting to verify the information on this form may result in suspension from participation in University of California business contracts for a period up to five (5) years and the imposition of any civil penalties allowed by law.

INFORMATION FURNISHED BY:  
(Print or Type Name of Owner and/or Principal)

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NAME OF BUSINESS:

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NAME: TITLE:

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SIGNATURE: DATE:

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**PRIVACY NOTIFICATION**

The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University of California to provide the following information to individuals who are asked to supply personal information about themselves. Information furnished on the Self-Certification form may, in some cases, identify the personal information of an individual.

- The University of California, Los Angeles, is requesting the information in this form and the accompanying Report of Subcontractor Information.
- The Small Business Outreach Program Manager at the University of California, Los Angeles, is responsible for maintaining the requested information. The contact information for the Small Business Outreach Program Manager is at <http://www.ucop.edu/procurement-services/files/sbdmgr.xlsx>
- The maintenance of information is authorized in part by Public Contract Code section 10500.5.
- Furnishing the information requested on this form is mandatory. If SBE, DBE, WBE, or DVBE status is applicable, providing such information is mandatory.
- Failure to provide the information may violate bidding procedures or breach of the contract, and the University may pursue all remedies permitted by the provisions of the Contract Documents.
- The information collected on this form is for monitoring and reporting purposes per state law and University policy.
- The individual may access information in this form and related forms by contacting the Small Business Outreach Program Manager(s).

## RETAIN FOR YOUR RECORDS

### **INSURANCE REQUIREMENTS FOR CONSULTANT FIRMS WORKING WITH THE UNIVERSITY OF CALIFORNIA**

The companies affording policies must have a Best rating of A- or better and a financial classification of VIII or better, or a rating by Standard & Poor of AA or better, or a Moody's rating of AA or better.

#### **TYPES OF INSURANCE**

- 1) **General Liability Insurance** (Comprehensive or Commercial Form): Shall provide \$2,000,000 coverage for each of the following: Each Occurrence and Personal and Advertising Injury. Shall provide \$2,000,000 coverage for each of the following: Products/Completed Operations Aggregate and General Aggregate.
- 2) **Business Automobile Liability Insurance:** For owned, scheduled, non-owned, or hired automobiles, with a combined single limit of no less than \$1,000,000 per accident.
- 3) **Worker's Compensation:** As required by the State of California law.
- 4) **Professional Liability Insurance:** Required by Consultants who will be preparing design or construction documents. Amount of coverage required is determined by size of project. For pre-design study work done under a Professional Services Agreement (PSA), major capital projects require coverage of \$2,000,000 per claim and \$2,000,000 in the aggregate. For design work done under an Executive Design Professional Agreement (EDPA), major capital projects require coverage of \$2,000,000 per claim and \$2,000,000 in the aggregate. Insurance policy must include Contractual Liability Coverage or endorsements to the policy for Contractual Liability Coverage.

#### **ADDITIONAL REQUIREMENTS**

- 1) Insurance company must complete the University's Certificate of Insurance form. This form provides that Consultant's insurance shall be the primary insurance as respects to the University and that any insurance or self-insurance maintained by the University shall be in excess of and non-contributory with Consultant's insurance.
- 2) Coverage may not be canceled without ten (10) days advance written notice to University.
- 3) If insurance policies are canceled for non-payment, University reserves the right to maintain policies in effect by making the policy payments; the cost of keeping the policies will be assessed against the Consultant.
- 4) The General Liability Insurance policy and the Business Automobile Liability Insurance policy must name The Regents of the University of California as an Additional Insured.
- 5) All insurance policies shall apply to the negligent acts or omissions of the Consultant, its officers, agents, and employees, and the Consultant's legal responsibility for the negligent acts or omissions of its sub-consultants and anyone directly or indirectly under the control, supervision, or employ of Consultant or sub-consultants.

**PROFESSIONAL SERVICES AGREEMENT**  
**between**  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
**and**  
**{TBD}**

This AGREEMENT is made on the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ between The Regents of the University of California, a California corporation, hereinafter called "University" and {TBD} hereinafter called "Consultant," to furnish certain services upon the following terms and conditions:

**I. CONSULTANT SERVICES AND RESPONSIBILITIES**

A. Consultant shall furnish the following services:

1. Act as a consultant to the University of California, Los Angeles, to perform {SCOPE OF SERVICES}, as required and authorized by University. Under this Agreement, Consultant may perform pre-design services but in no event does this Agreement authorize the preparation of any design documents, including Schematic Design.

University will authorize Consultant to perform specific services by the issuance of a Written Authorization(s) on the form contained in the Exhibits. Each Written Authorization will state the specific services to be performed, the schedule for their completion, and the method of compensation in accordance with Paragraph IV.

2. Furnish drawings, documents, reports, surveys, renderings, exhibits, models, prints, and photographs, and other materials as required and as authorized by University.

3. **{NOTE: THIS PARAGRAPH USED ONLY IF APPLICABLE TO SCOPE; OTHERWISE MARKED "NOT USED"}** Perform inspection services as described, pursuant to Written Authorization.

B. **{NOTE: THIS PARAGRAPH USED ONLY IF CONSULTANT MAY ALSO ACT AS PROJECT'S DESIGN PROFESSIONAL; OTHERWISE MARKED "NOT USED"}** Consultant hereby represents to University that:

1. Consultant acknowledges that it has been selected to perform services for the Project including services as Design Professional under the Executive Design Professional Agreement (EDPA) in the Exhibits;
2. Consultant acknowledges that University has deferred negotiations on a fee for Basic Services and rate schedule for Additional Services described in the EDPA; and
3. Consultant has read and understood the EDPA in the Exhibits and agrees to all of its terms and provisions.

C. **{NOTE: THIS PARAGRAPH USED ONLY IF CONSULTANT MAY ALSO ACT AS PROJECT'S DESIGN PROFESSIONAL; OTHERWISE MARKED "NOT USED"}** If University requires Consultant's services as Design Professional for the Project, Consultant agrees to the following:

1. Consultant will not request any modifications to those terms and provisions to the EDPA and will execute the EDPA in the form in the Exhibits; and
2. Consultant will negotiate in good faith both a fee to perform the Basic Services and a rate schedule to perform Additional Services based on its then current rate structure consistent with its normal practice and consistent with University guidelines for fees and rates for similar projects.

## II. TERM

- A. Order Period. The period of time for issuance of written Authorizations to Perform Services (hereinafter "Order Period") shall be from {TBD} to {TBD}.
- B. Period of Performance. The period of performance under the Agreement shall be as specified in any written Authorizations to Perform Services, or subsequent revisions thereto, issued during the Order Period. However, the period of performance shall not commence prior to the date of execution of any such written Authorization.
- C. University-Initiated Termination.
1. If University determines that Consultant has failed to perform in accordance with the terms and conditions of this Agreement, University may terminate all or part of the Agreement for cause. This termination shall become effective if Consultant does not cure its failure to perform within 10 days (or more, if authorized in writing by University) after receipt of a notice of intention to terminate from University specifying the failure in performance. If a termination for cause does occur, University shall have the right to withhold monies otherwise payable to Consultant until the services under this Agreement are completed. If University incurs additional costs, expenses, or other damages due to the failure of Consultant to properly perform pursuant to the Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to Consultant upon completion of the services to be provided under this Agreement. If the costs, expenses, or other damages incurred by University exceed the amounts withheld, Consultant shall be liable to University for the difference.
  2. University may terminate this Agreement for convenience at any time upon written notice to Consultant, in which case University will pay Consultant for all services performed and all expenses incurred under this Agreement up to and including the effective date of termination less any costs, expenses or other damages due to the failure of Consultant to properly perform pursuant to the Agreement. In ascertaining the services actually rendered up to the date of termination, consideration will be given to both completed Work and Work in progress, whether delivered to University or in the possession of Consultant, and to authorized Reimbursable Expenses. No other compensation will be payable for anticipated profit on unperformed services.
- D. Consultant -Initiated Termination.
- Consultant may terminate this Agreement for cause if University fails to cure a material default in performance within a period of 30 days, or such longer period as Consultant may allow, after receipt from Consultant of a written termination notice specifying the default in performance. In the event of termination for cause by Consultant, University will pay Consultant in accordance with subparagraph II.C.2.

## III. GENERAL PROVISIONS

- A. Independent Contractor. Consultant shall perform the services hereunder as an independent contractor and not as an agent or employee of University.
- B. Consultant Hiring. Consultant shall not hire any officer or employee of University to perform any service covered by this Agreement. If the service is to be performed in connection with a federal contract or grant, Consultant shall not hire any employee of the United States government to perform any service covered by this Agreement.
- C. Subconsultants. Consultant shall cooperate with other professionals employed by University in the production of other work related to its services. Subject to approval by University, Consultant shall contract for or employ, at its expense, such professional subconsultants as Consultant deems necessary for the completion of the services. Consultant may hire the

services of subconsultants with University approval in place of or in addition to those employed or retained by Consultant. Consultant is as responsible for the performance of its subconsultants as it would be if it had rendered these services itself. Nothing in the foregoing procedure shall create any contractual relationship between University and the professionals employed by Consultant under the terms and conditions of this Agreement. Consultant is solely responsible for payment of any subconsultants.

- D. Legal and Regulatory Compliance. Consultant shall perform all services and prepare documents in compliance with the applicable requirements of laws, codes, rules, regulations, ordinances, and standards.
- E. Copyright, Ownership and Use of Materials. Consultant hereby assigns to the University all right, title, and interest, including, but not limited to, copyright and all copyright rights, in all Materials created by Consultant in its performance under this Agreement and/or delivered to the University hereunder and shall execute any documents necessary to effectuate such assignment, with the exception that Consultant hereby grants to the University an irrevocable, fully-paid up, royalty-free license to use any document provided to the University including without limitation any document known as a "detail." Consultant warrants that it has the lawful right to grant the forgoing license to the University. In the event Consultant uses any individual who is not a full-time employee of Consultant or entity to perform any work required of it pursuant to this Agreement, Consultant shall require said individual or entity to sign an agreement containing identical wording as the foregoing with the exception that word "Consultant" is to be replaced with the individual's or entity's name. Materials constitute all written and other tangible expressions, including, but not limited to, drawings, documents, reports, surveys, renderings, exhibits, models, prints, photographs, etc. All Materials furnished by the Consultant hereunder shall be and shall remain the property of the University. In the event of Agreement termination by either party for any reason, as provided under this Agreement, the University will have the right to receive, and the Consultant shall promptly provide to the University, all drawings, documents, reports, surveys, renderings, exhibits, models, prints, photographs, and other materials prepared by the Consultant for the services under this Agreement. In the event of termination, and any dispute regarding the amount to be paid under this Agreement notwithstanding, the University retains the right to receive and use any such documents or materials. The foregoing provisions shall survive the term and termination of this Agreement.
- F. Consultant's Accounting Records. *Consultant's Accounting Records.* All books and records relating to this Agreement shall be maintained in accordance with Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS). University or University's authorized representative shall have access to and the right to audit and the right to copy all of Consultant's books and records. Consultant records shall include but not be limited to accounting records (hard copy, as well as computer readable data if it can be made available); contracts; payroll records; subconsultant agreements; vendor agreements; purchase orders; leases; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this agreement. All such books and records shall be preserved for a period of at least 3 years from the date of Final Payment under this Agreement.
- G. Conflict of Interest. Consultant affirms that to the best of its knowledge there exists no actual or potential conflict between Consultant's family, business, or financial interests (including services provided to another client) and the services provided under this Agreement, and that in the event of a change in either the private interests or services under this Agreement, any questions regarding a possible conflict of interest that may arise as a result of this change shall be disclosed in writing to University. Consultant shall not be in a reporting relationship to a University employee who is a near relative, nor shall the near relative be in a decision-making position with respect to Consultant.
- H. Successors and Assigns. If Consultant transacts business as an individual, upon Consultant's death or incapacitation, University will automatically terminate this Agreement

as of the date of such event. If so terminated, neither Consultant nor Consultant's estate shall have any further right to perform hereunder, and University shall pay Consultant or the estate the prorated unpaid compensation due under Article IV for any services rendered prior to this termination.

If there is more than one Consultant, and any one of them dies or becomes incapacitated, and the others continue to render the consulting services covered herein, University will make payments to those continuing as though there had been no death or incapacitation; University will not be obliged to take any account of the person who died or became incapacitated or to make any payment to this person or this person's estate. These provisions shall apply in the event of progressive or simultaneous occasions of death or incapacitation among any group of persons named as Consultant herein; if death or incapacitation befalls the last member of this group before the services of this Agreement are fully performed, then the rights shall be as if there had been only one Consultant.

This Agreement shall be binding upon University and Consultant and their respective successors and assigns. Neither the performance of this Agreement nor any part thereof, nor any monies due or to become due hereunder, may be assigned by Consultant without the prior written consent and approval of University.

- I. Information Furnished by University. If required for the performance of Consultant's services, University will furnish information, surveys, reports, as-builts, and other materials at University's expense.
- J. Statistical Reporting. At the commencement of performance, Consultant shall complete and submit, and require each Subconsultant who performs services under this Agreement to complete and submit, a Self-Certification on the form contained in the Exhibits. At the completion of work and prior to final payment, Consultant shall complete and submit a Final Distribution of Contract Dollars under this Agreement on the form contained in the Exhibits.
- K. Confidentiality. Consultant shall use his or her best efforts to keep confidential a) any information produced or created by Consultant under this Agreement including but not limited to test results, sampling results, data, plans and reports; b) any information provided by University and marked "Confidential Information"; or c) any oral information conveyed to Consultant by University and followed by a written communication within thirty (30) days that said information shall be considered Confidential Information. In the event that Consultant determines that it has a legal obligation to disclose such Confidential Information pursuant to a third party demand, Consultant shall notify the University in writing of its receipt of such demand and of Consultant's determination that it has a legal obligation to disclose Confidential Information. Consultant shall not disclose any such Confidential Information until at least ten (10) days from the date of receipt by University of Consultant's written notice. This nondisclosure provision shall not apply to any of the following:
1. Information which Consultant can demonstrate by written records was known to him or her prior to the effective date of this Agreement;
  2. Information that is currently in, or in the future enters, the public domain other than through a breach of this Agreement or through other acts or omissions of Consultant; or
  3. Information that is obtained lawfully from a third party.
- L. Survival. The provisions of this Agreement which by their nature survive expiration or termination of the Agreement or Final Completion of any related Project or the performance of services under this Agreement, including any and all warranties, confidentialities, indemnities, payment obligations, and University's right to audit Consultant's books and records, shall remain in full force and effect after any expiration or termination of the Agreement or Final Completion of any related Project or the performance of services under this Agreement.



- M. UC Fair Wage. Consultant shall pay all persons providing services and/or any labor on site, including any University location, no less than UC Fair Wage (defined as \$13 per hour as of 10/1/15, \$14 per hour as of 10/1/16, and \$15 per hour as of 10/1/17) and shall comply with all applicable federal, state and local working condition requirements.
- N. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a University approved digital signature process and shall have the same force and effect as the use of a manual signature. University reserves the right to reject any digital signature that cannot be positively verified by the University system as an authentic digital signature.

#### IV. COMPENSATION

- A. Compensation payable by University under this Agreement shall not exceed \${TBD}.
- B. University will have the right to withhold payment from Consultant for any unsatisfactory service until such time service is performed satisfactorily.
- C. University will compensate Consultant for the scope of services provided in accordance with this Agreement, computed as follows:
  - 1. For each Written Authorization, a maximum payment shall be established that shall not be exceeded without the prior written approval of University.
  - 2. All fees shall be in accordance with Consultant Rate Schedule contained in the Exhibits. Unless otherwise provided in Consultant Rate Schedule, rates shall not be changed except in accordance with Subparagraph VIII.A. Alternatively, a lump-sum fee may be negotiated.
  - 3. Payments to Consultant shall be made monthly, subsequent to University's receipt of an invoice itemizing the fees and reimbursable expenses for each Written Authorization for the month invoiced.
  - 4. Reimbursable expenses are actual expenditures made by Consultant and Consultant's employees and subconsultants in accordance with the Reimbursement Schedule contained in the Exhibits. Such reimbursable expenses will be paid in addition to the fees for services under this Agreement.

#### V. INDEMNIFICATION AND INSURANCE

##### A. INDEMNIFICATION

- 1. Consultant shall indemnify, defend, and hold harmless University and its Regents, officers, employees, agents, and representatives (collectively, "Indemnitee"), against all liability, demands, claims, costs, damages, injury including death, settlements, and expenses (including without limitation, interest and penalties) incurred by Indemnitee ("Losses") arising out of the performance of services or Consultants other obligations under this Agreement, but only in proportion to and to the extent such Losses are caused by or result from (1) the negligent acts or omissions of Consultant, its officers, agents, employees, subcontractors, subconsultants, or any person or entity for whom Consultant is responsible (collectively, "Indemnitor"); (2) the breach by Indemnitor of any of the provisions of this Agreement; or (3) willful misconduct by Indemnitor.
- 2. The indemnification obligations under this Article V shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the Losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. The obligation to defend shall arise regardless of any claim or assertion that Indemnitee caused or contributed

to the Losses. Indemnitor's reasonable defense costs (including attorney and expert fees) incurred in providing a defense for Indemnitees shall be reimbursed by University except to the extent such defense costs arise, under principles of comparative fault, from Indemnitor's (a) negligent acts or omissions; (b) breach of any of the provisions of this Agreement; or (c) willful misconduct.

3. Consultant shall indemnify, defend, and save harmless Indemnitee from and against all loss, cost, expense, royalties, claims for damages or liability, in law or in equity, including, without limitation, attorney fees, court costs, and other litigation expenses that may at any time arise or be set up for any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark or any other proprietary right of any person or entity in consequence of the use by Indemnitee of any documents (including any method, process, product, concept specified or depicted) supplied by Indemnitor in the performance of this Agreement.
4. Nothing in this Agreement, including the provisions of this Article V, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

**B. INSURANCE**

1. Insurance Requirements. Consultant, at Consultant's sole cost and expense, shall insure its activities in connection with this Agreement, and shall obtain, keep in force, and maintain insurance as listed below. The coverages required under subparagraph V.B shall not in any way limit the liability of Consultant.
  - a. Commercial-Form General Liability Insurance with coverage and minimum limits as follows:

i.	Each Occurrence	\${TBD}
ii.	Products Completed, Operations Aggregate	\${TBD}
iii.	Personal and Advertising Injury	\${TBD}
iv.	General Aggregate	\${TBD}
  - b. Business Automobile Liability Insurance for owned, scheduled, nonowned, and hired automobiles, with a combined single limit of no less than \${TBD} per accident.
  - c. **{NOTE: PROFESSIONAL LIABILITY INSURANCE IS NOT REQUIRED FOR EVERY TYPE OF CONSULTING SERVICE}** Professional Liability Insurance with limits of \${TBD} per claim and \${TBD} in the aggregate.
  - d. If the above insurance (subparagraphs V.B.1.a – V.B.1.c) is written on a claims-made basis, it shall be maintained continuously for a period of no less than 3 years after the date of Final Completion of the services authorized pursuant to each Written Authorization executed. The insurance shall have a retroactive date of placement prior to, or coinciding with, the date services are first provided that are governed by the terms of this Agreement and shall include, without limitation, coverage for professional services as called for in this Agreement. Insurance required by subparagraphs V.B.1.a-V.B.1.c shall be (i) issued by companies that have a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's).

- e. Workers' Compensation and Employer's Liability Insurance as required by Federal and State of California law. Insurance required by this subparagraph V.B.1.e shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's); or (ii) that are acceptable to University.
- f. Consultant, upon the execution of this Agreement, shall furnish University with Certificate of Insurance evidencing compliance with this Article V, including the following requirements:
  - i. Consultant shall have the insurance company complete University's Certificate of Insurance on the form contained in the Exhibits. If Consultant's insurance company refuses to use University's Certificate of Insurance form, it must provide a Certificate of Insurance (and endorsements, if needed) evidencing compliance with subparagraph V.B. and Special Provisions 1 through 3 on the Certificate of Insurance Exhibit. It alone constitutes evidence of insurance.
  - ii. If insurance policies are canceled for non-payment, University reserves the right to maintain policies in effect by continuing to make the policy payments and assessing the cost of so maintaining the policies against Consultant.
  - iii. University, University's officers, agents, employees, consultants, University's Representative, and University's Representative's consultants, regardless of whether or not identified in the Contract Documents or to Consultant in writing, will be included as additional insureds on Consultant's general liability policy for and relating to the Work to be performed by Consultant and Subcontractors. Consultant's general liability insurance policy shall name University as an additional insured pursuant to additional insured endorsement CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04). The General Liability coverage shall contain a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees. Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance. This requirement shall not apply to Worker's Compensation and Employer's Liability Insurance. The Professional Liability insurance policy shall include Contractual Liability Coverage or endorsements to the insurance policies for Contractual Liability Coverage for liability that would exist in the absence of the contract.
  - iv. The General Liability and the Professional Liability insurance policies shall apply to the negligent acts, or omissions of Consultant, its officers, agents, employees, and for Consultant's legal responsibility for the negligent acts or omissions of its consultants and anyone directly or indirectly under the control, supervision, or employ of Consultant or Consultant's consultants.

## **VI. STATUTORY AND OTHER REQUIREMENTS**

### **A. NONDISCRIMINATION**

- 1. In connection with the performance of the Consultant pursuant to this Agreement, the Consultant shall provide equal treatment to, and not willfully discriminate against or allow harassment of, any employee or applicant for employment on the basis of:

race; color; religion; ancestry; national origin; sex; age; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the California Government Code); marital status; gender identity; pregnancy; citizenship (within the limits imposed by law or by The Regents' policy and including cancer-related or genetic characteristics); or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). Consultant will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above. This equal treatment shall apply, but shall not be limited to, the following: upgrade, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. Consultant also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the consultant, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). For purposes of this provision: (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

**B. PREVAILING WAGE RATES**

1. For purposes of this Article, the term subcontractor or subconsultant shall not include suppliers, manufacturers, or distributors.
2. Consultant shall comply and shall ensure that all subcontractors or subconsultants comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, 1775, 1776, 1777.5, and 1777.6 of the State of California Labor Code. Compliance with these sections is required by this Contract. The Work under this Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. References to Covered Services hereinafter shall mean services performed pursuant to this Agreement that are covered by the aforementioned provisions as implemented by the State of California Department of Industrial Relations.
3. The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality, if any, listed in the Written Authorization for the performance of construction, alteration, demolition or repair work as defined in Section 1720 of the State of California Labor Code for each craft, classification, or type of worker required to perform the Covered Services hereunder. A schedule of the general prevailing per diem wage rates will be on file at University's principal facility office and will be made available to any interested party upon request. By this reference, such schedule is made part of this Agreement. Consultant shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Consultant in the execution of the Covered Services hereunder. Consultant shall cause all subcontracts or subconsultant agreements to include the provision that all

subcontractors or subconsultants shall pay not less than the prevailing wage rates to all workers employed by such subcontractor or subconsultants in the execution of the Covered Services hereunder. Consultant shall forfeit to University, as a penalty, not more than \$200 for each calendar day, or portion thereof, for each worker that is paid less than the prevailing wage rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the Covered Services hereunder performed by Consultant or any subcontractor or subconsultant. The amount of this penalty shall be determined by the Labor Commissioner pursuant to applicable law. Such forfeiture amounts may be deducted from Consultant fee. Consultant shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Covered Services hereunder, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker.

C. PAYROLL RECORDS

1. Consultant and all subcontractors or subconsultants shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, or other employee employed in connection with the Covered Services hereunder. All payroll records shall be certified as being true and correct by Consultant or subcontractors or subconsultants keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of Consultant on the following basis:
  - a. A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or the employee's authorized representative on request.
  - b. A certified copy of all payroll records shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
  - c. A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Consultant or subcontractors or subconsultants. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Consultant awarded the Agreement or performing the Agreement shall not be marked or obliterated.
2. Consultant shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Consultant shall inform University of the location of such payroll records for the Written Authorization, including the street address, city, and county; and Consultant shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of this subparagraph or with the State of California Labor Code Section 1776, Consultant shall have 10 days in which to comply following receipt of notice specifying in what respects Consultant must comply. Should noncompliance still be evident after the 10-day period, Consultant shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each

worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from Consultant fee.

D. APPRENTICES

1. Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by Consultant and subcontractors or subconsultants as apprentices for the Covered Services hereunder. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code, including but not limited to Section 1777.5. The Consultant bears responsibility for compliance with this section for all apprenticeable occupations.
2. Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only for the Covered Services hereunder in the craft or trade to which the apprentice is indentured.
3. When Consultant or subcontractors or subconsultants employ workers in any apprenticeship craft or trade for the Covered Services hereunder, Consultant or subcontractors or subconsultants shall apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the locality, if any, listed in the Written Authorization for the performance of construction, alteration, demolition or repair work as defined in Section 1720 of the State of California Labor Code, for a certificate approving Consultant or subcontractors or subconsultants under the apprenticeship standards for the employment and training of apprentices in the locality so identified. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeypersons who shall be employed in the craft or trade on the Covered Services hereunder. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 hour of apprentice work for every 5 hours of journeyperson work, except as permitted by law. Consultant or subcontractors or subconsultants shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeypersons fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.
4. "Apprenticeship craft or trade," as used in this Paragraph, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.
5. If Consultant or subcontractors or subconsultants employ journeypersons or apprentices in any apprenticeship craft or trade in the locality, if any, listed in the Written Authorization for the performance of construction, alteration, demolition or repair work as defined in Section 1720 of the State of California Labor Code, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the locality so identified are contributing, Consultant and subcontractors or subconsultants shall contribute to the fund or funds in each craft or trade in which they employ journeypersons or apprentices on the Covered Services hereunder in the same amount or upon the same basis and in the same manner done by the other contractors. Consultant may include the amount of such contributions in computing its compensation under the Agreement; but if Consultant fails to do so, it shall not be entitled to any additional compensation therefore from University.

6. In the event Consultant willfully fails to comply with this subparagraph VI.D, it will be considered in violation of the requirements of the Agreement.
7. Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Consultant or subcontractors or subconsultants of journey person trainees who may receive on-the-job training to enable them to achieve journey person status in any craft or trade under standards other than those set forth for apprentices.

E. WORK DAY

1. Consultant shall not permit any worker providing Covered Services to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Consultant shall forfeit to University, as a penalty, \$25 for each worker employed in the execution of this Agreement by Consultant, or any subcontractors or subconsultant, for each day during which such worker is required or permitted to work providing Covered Services more than 8 hours in any 1 day and 40 hours in any 1 calendar week in violation of the terms of this subparagraph or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the compensation otherwise due under this Agreement. Consultant and each subcontractor or subconsultant shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed under this Agreement, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

F. PATIENT HEALTH INFORMATION

1. Consultant acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). Consultant shall immediately notify University's Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. Consultant will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If Consultant, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, Consultant will report such actions immediately to University's Representative. Consultant will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. Consultant will report to University's Representative within five (5) days after Consultant gives University's Representative notice of the event/action of the steps taken to prevent future occurrences.

VII. NOTICES

- A. University. Any notice may be served upon University by delivering it, in writing, to University at the address set forth on the last page of this Agreement, by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to University at the aforementioned address, or by sending a facsimile of it to University facsimile number set forth on the last page of this Agreement.
- B. Consultant. Any notice may be served upon Consultant by delivering it, in writing, to Consultant at the address set forth on the last page of this Agreement, by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice

addressed to Consultant at this address, or by sending a facsimile of it to Consultant facsimile number set forth on the last page of this Agreement.

**VIII. AUTHORITY OF AGREEMENT**

A. This Agreement represents the entire and integrated agreement between University and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be modified only by a written instrument signed by both University and Consultant and the written instrument shall be an Amendment on the form contained in the Exhibits.

B. This Agreement includes the following Exhibits attached herewith:

- Exhibit A: Written Authorization to Perform Services
- Exhibit B: Consultant Rate Schedule
- Exhibit C: Reimbursement Schedule
- Exhibit D: Certificate of Insurance
- Exhibit E: Amendment
- Exhibit F: Not Used
- Exhibit G: Not Used

**{ NOTE: EXHIBIT H USED ONLY IF CONSULTANT MAY ALSO ACT AS PROJECT'S DESIGN PROFESSIONAL; OTHERWISE MARKED "NOT USED" }**

- Exhibit H: Executive Design Professional Agreement
- Exhibit SC: Self-Certification
- Exhibit FD: Final Distribution of Contract Dollars



IN WITNESS WHEREOF, UNIVERSITY and CONSULTANT have executed this Agreement on the date(s) set forth below.

CONSULTANT

{TBD}

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

CONSULTANT ADDRESS:

CONSULTANT TELEPHONE NUMBER:

CONSULTANT FACSIMILE NUMBER:

CONSULTANT TAX I.D. NUMBER:

UNIVERSITY:

THE UNIVERSITY OF CALIFORNIA, LOS ANGELES

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

UNIVERSITY ADDRESS:

UNIVERSITY FACSIMILE NUMBER:

UNIVERSITY PROJECT MANAGER:

**EXHIBIT A**

**- SAMPLE -**

**AUTHORIZATION NUMBER TO PERFORM SERVICES**

for the  
PROFESSIONAL SERVICES AGREEMENT  
between  
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

and  
{TBD}  
made on the **{PSA Execution Date}**

(Note: Order Period is from {TBD} through {TBD}.)

Project Name: <Internal Project Name>  
Project Number: <Internal\_Project\_Number>

I. IN ACCORDANCE WITH THE TERMS OF THE AGREEMENT ABOVE, YOU ARE HEREBY AUTHORIZED TO PERFORM THE FOLLOWING SERVICES:

{Brief\_Project\_Description}

II. **{UCLA: USE THE FOLLOWING ¶ II FOR FIXED FEE ONLY & DELETE ALL REMAINING ¶ IIs}**

NEGOTIATED FIXED FEE SHALL BE: **#{UCLA: FILL IN}**

II. **{UCLA: FOR FEMA AUTHS, USE THE FOLLOWING ¶ II FOR TIME & MATERIALS ONLY, & DELETE ALL REMAINING ¶ IIs}** COMPENSATION SHALL BE MADE IN ACCORDANCE WITH CONSULTANT DIRECT PAYROLL COST RATE SCHEDULE IN THIS AGREEMENT, (SEE EXHIBIT B)

A. FIXED PROFIT FEE SHALL NOT EXCEED: **#{UCLA: FILL IN}**

B. TOTAL COMPENSATION (INCLUDING THE FIXED PROFIT FEE REFERENCED ABOVE) SHALL NOT EXCEED: **#{UCLA: FILL IN}**

II. **{UCLA: FOR NON-FEMA AUTHS, USE THE FOLLOWING ¶ II FOR TIME & MATERIALS ONLY, & DELETE ALL REMAINING ALTERNATE ¶ IIs}** COMPENSATION SHALL BE MADE IN ACCORDANCE WITH CONSULTANT RATE SCHEDULE IN THIS AGREEMENT, (SEE EXHIBIT B), AND SHALL NOT EXCEED: **#{UCLA: FILL IN}**

III. SERVICES AUTHORIZED TO BE COMPLETED WITHIN: **{AMOUNT OF TIME: number of days, a specific date.}**

**{OPTIONAL: INSERT THE FOLLOWING ITEM IV ONLY IF AUTHORIZATION IS FOR SERVICES TO BE PERFORMED DURING DESIGN OR PRECONSTRUCTION OF AN IDENTIFIED PROJECT.}**

IV. LOCALITY FOR PERFORMANCE OF WORK

The locality for the performance of construction, alteration, demolition or repair work as defined in Section 1720 of the State of California Labor Code for the purposes of Article VI of the Agreement will be Los Angeles County.

SAMPLE ONLY

This Authorization has been executed on the {DATE} day of {MONTH}, {YEAR}.

Consultant: {TBD}

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

CONSULTANT ADDRESS:

CONSULTANT TELEPHONE NUMBER:

CONSULTANT FACSIMILE NUMBER:

UNIVERSITY:

THE UNIVERSITY OF CALIFORNIA, LOS ANGELES

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

UNIVERSITY ADDRESS:

UNIVERSITY FACSIMILE NUMBER:

UNIVERSITY PROJECT MANAGER:

**EXHIBIT B**  
**CONSULTANT RATE SCHEDULE**  
for the  
**PROFESSIONAL SERVICES AGREEMENT**  
(Dated from {TBD} through {TBD})  
between  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
and  
{TBD}

TBD

**{ONE OF THE FOLLOWING MAY BE INCLUDED:}**

The above rates will be adjusted biennially in accordance with changes in the Consumer Price Index (CPI).

**{OR}**

The above rates will be adjusted annually in accordance with actual rate increases paid to personnel. Notwithstanding the preceding, the rate increase for an individual employee shall not exceed **{INSERT PERCENTAGE e.g. 3%}** annually.

**EXHIBIT C**  
**REIMBURSEMENT SCHEDULE**  
for the  
**PROFESSIONAL SERVICES AGREEMENT**  
(Dated from {TBD} through {TBD})  
between  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
and  
{TBD}

Consultant will be reimbursed actual expenditures (up to the maximum limit) in accordance with the following reimbursement schedule only when said expenditures are authorized in writing in advance by University, and only when paid invoices, receipts or other proof of payment is submitted:

TRANSPORTATION RELATED EXPENSES:

Item	Description	Maximum Limit
Mileage	Non-rented car	Current Rate*
Per diem	Daily meal and incidental expenses (for periods in excess of 24 hours)	\$62.00**
Air Fare	Refundable ticket, coach, roundtrip	As approved in advance by University
Rental car	Rented car	As approved in advance by University
Hotel	Lodging expenses must be supported by original itemized receipts, regardless of the amounts incurred, and must be reasonable for the locality of travel. The traveler must be at least forty miles from the headquarter location or home, whichever is closer, to be reimbursed for an overnight stay.	

- \* The mileage reimbursement rate is the standard rate for automobiles published by University in Business & Finance Bulletin G-28, "Policy and Regulations Governing Travel," as may be adjusted from time to time by University. Said rate is currently 53.5 cents/mile.
- \*\* For travel of less than 24 hours, Meals and Incidental Expenses ("M&IE") shall not be reimbursed unless the travel includes an "overnight stay" as supported by a lodging receipt. For domestic travel, reimbursement is limited to the actual cost of lodging. Actual M&IE shall be reimbursed up to a maximum of \$62.00 for the entire trip. An exception to the overnight stay requirement may be allowed when the traveler incurs a meal expense as part of a business meeting and must be substantiated as specified in advance by University.

Transportation, lodging, per diem and related expenses for travel between the Consultant's offices and travel between offices of Consultant and offices of its subconsultants are not reimbursable. Transportation expenses shall be paid on the same basis and shall be subject to the same conditions as those in effect for employees of University. These expenses shall not be compensable unless authorized, in writing, in advance by University and subject to the following condition(s):

Transportation, lodging, and living expenses shall be reimbursable only while traveling outside the greater Los Angeles area.

REPRODUCTION, POSTAGE, AND MISCELLANEOUS EXPENSES:

Expenses for printing, reproductions, postage, handling and delivery for documents, reports, surveys, drawings, and other materials, excluding reproductions for office use by Consultant and the its subconsultants and postage and delivery for transmittals between Consultant's offices or between Consultant and its subconsultants.



# CERTIFICATE OF LIABILITY INSURANCE

(for non-UCIP Construction Projects and Consultant/Design Contracts)

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b>	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
	<b>E-MAIL ADDRESS:</b>	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
	<b>NAIC #</b>	
	<b>INSURER A :</b>	
<b>INSURED</b>	<b>INSURER B :</b>	
	<b>INSURER C :</b>	
	<b>INSURER D :</b>	
	<b>INSURER E :</b>	
	<b>INSURER F :</b>	

**COVERAGES                      CERTIFICATE NUMBER:                      REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR <hr/> <small>GENL</small> AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS						
	<input type="checkbox"/> <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$						
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input type="checkbox"/> <b>N/A</b> <small>(Mandatory in NH)</small> <small>If yes, describe under DESCRIPTION OF OPERATIONS below</small>						<input type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER
	<b>PROFESSIONAL LIABILITY</b> <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS-MADE						

**Special Provisions:**

- The Regents of the University of California, The University of California, University, and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, are included as additional insureds on the general liability policy as required by contract and pursuant to additional insured endorsement CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04) but only in connection with \_\_\_(name of project)\_\_\_.
- The General Liability coverage contains a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees. Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance.

**CERTIFICATE HOLDER: The Regents of the University of California**

Forward to: {Office, Room Number or Mail Stop} University of California, {Facility} {Street Address} {City, State, Zip}	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b> AUTHORIZED REPRESENTATIVE
--	--

**EXHIBIT E**

**AMENDMENT**

for the  
PROFESSIONAL SERVICES AGREEMENT  
(Dated from {TBD} through {TBD})  
between  
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
and  
{TBD}

Amendment Number {#}

The Agreement between the Regents of the University of California and {TBD}, dated {TBD}, to act as a Consultant to the University of California, Los Angeles, is hereby amended as follows:

**{INSERT MODIFICATIONS TO THIS AGREEMENT. FOR EXAMPLE, THE TERM OF THE AGREEMENT MAY BE EXTENDED.}**

**EXAMPLES:**

1. The term of this Agreement is extended to {Month} {Day}, {Year}.
2. Compensation payable by University under this Agreement, including any Amendments, shall not exceed \${AMOUNT IN FIGURES}.
3. Consultant Rate Schedule Exhibit is replaced with the revised Consultant Rate Schedule dated {INSERT DATE} and attached herewith.
4. The following provision is added to this Agreement:  
{\_\_\_\_\_}.

All terms and conditions of this Agreement shall remain in full force and effect unless expressly modified herein or by another duly executed Amendment.

IN WITNESS WHEREOF, University and Consultant have executed this Amendment on the  
{\_\_\_\_\_}.



**EXHIBIT SC  
SELF-CERTIFICATION**

for the  
**PROFESSIONAL SERVICES AGREEMENT**  
(Dated from {TBD} through {TBD})  
between  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
and  
{TBD}

For the Contractor and each Subcontractor indicated on the Report of Subcontractor Information, the following must be completed.

OR

For the Consultant and each Sub-consultant, the following must be completed.

Indicate all Business category(ies) that apply by initialing next to the applicable category(ies):

\_\_\_\_\_ (Initial if applicable) **Small Business Enterprise (SBE)** - an independently owned and operated concern certified, or certifiable, as small business by the Federal Small Business Administration (SBA). (Size standards by Standard Industrial Classification codes required by the Federal Acquisition Regulations, Section 19.102, may be found at <http://www.sba.gov/content/table-small-business-size-standards>.) The eligibility requirements for California contracting purposes is on the [Department of General Services website](http://www.dgs.ca.gov/pd/Programs/OSDS/SBEEligibilityBenefits.aspx) at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEEligibilityBenefits.aspx>. The University may rely on written representation by the vendors regarding their status.

\_\_\_\_\_ (Initial if applicable) **Disabled Veteran Business Enterprise (DVBE)** - a business that is at least 51% owned by one or more disabled veterans or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. A Disabled Veteran is a veteran of the military, naval, or air service of the United States with a service connected disability who is a resident of the State of California. To qualify as a veteran with a service connected disability, the person must be currently declared by the United States Veterans Administration to be 10% or more disabled as a result of service in the armed forces.

\_\_\_\_\_ (Initial if applicable) **Disadvantaged Business Enterprise (DBE)** - a business concern that is at least 51% owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free private enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans) are to be considered socially and economically disadvantaged.

\_\_\_\_\_ (Initial if applicable) **Women-Owned Business Enterprise (WBE)** - a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

\_\_\_\_\_ (Initial if applicable) **None of the above categories apply.**

I hereby certify under penalty of perjury under the laws of the State of California that I have read this certification and know the contents thereof, and that the business category indicated above reflects the true and correct status of the business in accordance with Federal Small Business Administration criteria and Federal Acquisition Regulations, FAR 19 pertaining to small, disadvantaged, women-owned, and disabled veteran business enterprises. I understand that falsely certifying the status of this business, obstructing, impeding or otherwise inhibiting any University of California official who is attempting to verify the information on this form may result in suspension from participation in University of California business contracts for a period up to five (5) years and the imposition of any civil penalties allowed by law.

INFORMATION FURNISHED BY:

\_\_\_\_\_  
(Print or Type Name of Owner and/or Principal)

\_\_\_\_\_  
(Name of Business or Firm)

a

\_\_\_\_\_  
(Insert type of business e.g. corporation, sole proprietorship, partnership, etc.)

By:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

#### PRIVACY NOTICE

The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University of California to provide the following information to individuals who are asked to supply personal information about themselves. Information furnished on the Self-Certification form may, in some cases, identify personal information of an individual.

- The University of California, Los Angeles, is requesting the information contained in this form and the accompanying Report of Subcontractor Information.
- The Small Business Coordinator at the University of California, Los Angeles, is responsible for maintaining the requested information. The contact information for the Small Business Coordinators may be found at: <http://www.ucop.edu/procurement-services/files/sbdmgr.xlsx>.
- The maintenance of information is authorized in part by Public Contract Code section 10500.5.
- Furnishing the information requested on this form is mandatory. If SBE, DBE, WBE and/or DVBE status is applicable, furnishing such information is mandatory.
- Failure to provide the information may be a violation of bidding procedures and/or breach of the contract and the University may pursue any and all remedies permitted by the provisions of the Contract Documents.
- The information on this form is collected for monitoring and reporting purposes in accordance with state law and University policy.

The individual may access information contained in this form and related forms by contacting the Small Business Coordinator(s).



**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**  
Between  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
And  
**THE DESIGN PROFESSIONAL**

This AGREEMENT is made on \_\_\_\_\_ between The Regents of the University of California, a California Corporation, hereinafter called "University" and {DESIGN PROFESSIONAL}, hereinafter called "Design Professional." The above named individual or firm shall be the Executive Architect or Engineer and shall comply with the licensing laws of the State of California regarding the practice of architecture or engineering in performing the services set forth in this Agreement for the following project:

UNIVERSITY OF CALIFORNIA, LOS ANGELES

**Project Name: {UCLA PROJECT NAME}**  
**Project Number: {UCLA PROJECT NUMBER}**  
**Project Order Number:**

PROJECT DESCRIPTION:

CONSTRUCTION BUDGET: {PRJOECT BUDGET}

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**ARTICLE 1**      **GENERAL PROVISIONS**

**1.1**      **GENERAL REQUIREMENTS**

1.1.1      This Agreement shall be governed by the laws of the State of California.

1.1.2      In the event of a conflict between the provisions of any exhibit to this Agreement and the Agreement, the provisions of this Agreement shall govern.

1.1.3      University's exercise of any of its rights or remedies prescribed in this Agreement shall not relieve Design Professional from responsibility for damages or other losses incurred or to be incurred by University as a result of Design Professional's breach of its obligation under this Agreement.

1.1.4      Time is of the essence for this Agreement.

1.1.5      Design Professional shall cooperate with University, its designees, and Contractor in furthering the interests of University.

1.1.6      Design Professional shall cooperate with other professionals University may employ for related work.

1.1.7      To the extent required by University, Design Professional shall consult with authorized employees, agents, and representatives of University relative to the design and construction of a Project.

1.1.8      Design Professional shall perform all services in compliance with applicable laws, codes, rules, regulations, ordinances, University policies, and Facility standards. University policies include without limitation those related to Seismic Safety and Sustainable Practices.

1.1.9      Services required by this Agreement include, at no additional cost to University, all services necessitated, in whole or in part, by errors and omissions of, or breach of this Agreement by, Design Professional, its subconsultants, or any person or entity working under Design Professional.

1.1.10     Design Professional shall pay all persons providing services and/or any labor on site, including any University location, no less than UC Fair Wage (defined as \$13 per hour as of 10/1/15, \$14 per hour as of 10/1/16, and \$15 per hour as of 10/1/17) and shall comply with all applicable federal, state and local working condition requirements.

1.1.11     This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a University approved digital signature process and shall have the same force and effect as the use of a manual signature. University reserves the right to reject any digital signature that cannot be positively verified by the University system as an authentic digital signature.

**1.2**      **DESIGN PROFESSIONAL STANDARD OF CARE**

1.2.1      Design Professional, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom Design Professional is responsible shall provide all services pursuant to this Agreement in a manner consistent with the standard of care under California law applicable to those who specialize in providing such services for projects of the type, scope, and complexity of the Project (including its contracting mode).

**1.3**      **DEFINITIONS**

Unless defined differently herein, terms used in this Agreement shall have the same meaning as those used in University's Bidding Documents, General Conditions in the Exhibits.

1.3.1      *Agreement.* The term "Agreement" means this Agreement, Supplemental Requirements, Exhibits, Amendments, and all other documents identified in this Agreement which together form the agreement between University and the Design Professional for the Work. The Agreement constitutes the complete agreement between University and the Design Professional and supersedes any previous agreements or understandings.

1.3.2      *Architect (or Engineer) of Record.* The term "Architect of Record" or "Engineer of Record" shall mean the specific University-approved Design Professional named in this Agreement who is the Design Professional's designated principal or staff member in charge of providing all services required by this Agreement.

1.3.3      *As-builts (As-built Drawings and Specifications).* The term "As-builts" shall mean the marked-up version of the Contract Documents prepared by the construction Contractor to record as-built conditions, current changes, and selections made during construction.

1.3.4      *Bidding Documents.* The term "Bidding Documents" shall mean those documents prepared and furnished by University for the purpose of obtaining bids from contractors to construct the Project, including without limitation, the General Conditions and General Requirements attached in the Exhibits.

1.3.5      *Construction Budget.* The term "Construction Budget" shall mean University's written statement of funds available to pay for the cost of construction.

- 1.3.6** *Construction Documents.* The term "Construction Documents" shall mean the documents prepared and furnished by the Design Professional to be used for bidding the construction work for the Project.
- 1.3.7** *Contract Documents.* The term "Contract Documents" shall mean the Advertisement for Bids, Instructions to Bidders, Supplementary Instructions to Bidders, Bid Form, Agreement, General Conditions, Supplementary Conditions, Exhibits to the Construction Documents, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Notice of Completion and all other items identified as Contract Documents in the Construction Contract Agreement.
- 1.3.8** *Coordination.* The term "Coordination" shall mean that the documents shall be consistent and in conformance each part with all other parts.
- 1.3.9** *Estimated Project Construction Cost.* The term "Estimated Project Construction Cost" shall mean Design Professional's written estimate in the form specified by University in the Exhibits, of the total Construction Cost of the Project at the various stages of the design process.
- 1.3.10** *Facility.* The term "Facility" means the University of California, Los Angeles.
- 1.3.11** *Project.* The term "Project" means the project described on page 1 of this Agreement.
- 1.3.12** *Project Architect (or Engineer).* The term "Project Architect" or "Project Engineer" shall mean the specific University-approved Design Professional named in this Agreement who is the Design Professional's designated architect (or engineer) who is the first point of contact in providing all services required by this Agreement.
- 1.3.13** *Project Program.* The term "Project Program" shall mean a written statement in the Exhibits of University's design objectives, constraints, and criteria, including space requirements and relationships, flexibility and expendability, special equipment and systems, and Project site requirements.
- 1.3.14** *Project Schedule.* The term "Project Schedule" shall mean the schedule prepared by University showing project milestones, funding, design, design review, construction, and other deadlines applicable to the Project.
- 1.3.15** *Record Documents.* The term "Record Documents" shall mean those documents (including without limitation the updated version of the Construction Documents) prepared by the Design Professional incorporating Addenda, Change Orders and information from the As-builts and other data furnished by Contractor to Design Professional.
- 1.3.16** *University.* The term "University" shall mean the Regents of the University of California.
- 1.3.17** *University's Representative.* The term "University's Representative" shall mean the person or entity providing University's Representative services as indicated in the Contract Documents including, but not limited to, issuance of written communications with the Contractor.
- 1.3.18** *University's Designated Administrator.* The term "University's Designated Administrator" shall mean the individual acting as University's Designated Administrator pursuant to paragraph 4.1.1.

## **ARTICLE 2**      **BASIC SERVICES**

Basic Services to be provided by Design Professional include the services described in this Article 2 and as further described in the Supplemental Requirements in the Exhibits.

### **2.1**      **GENERAL**

**2.1.1**      The services of Design Professional shall be performed in accordance with the Agreement and the Supplemental Requirements in the Exhibits.

**2.1.2**      To the extent deemed necessary by Design Professional, Design Professional shall employ architects, 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 under basic services shall be paid by Design Professional. Design Professional shall submit, for approval by University, names of consultants for each professional element of service of the Project. University-approved consultants provided under basic service shall be as named below:

<b>Consultant Name</b>	<b>Discipline</b>
------------------------	-------------------

Nothing in the foregoing shall create any contractual relationship between University and any consultants employed by Design Professional under the terms of this Agreement. Design Professional is as responsible for the performance of its consultants as it would be if it had rendered these services itself.

**2.1.3**      Design Professional shall designate a 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 University, and remains in Design Professional's employ, the Project Architect or Project Engineer shall remain the first point of contact for all design and other services required under this



Agreement, including attending design-related meetings for the Project, unless a substitution mutually acceptable to Design Professional and University is made. University-approved Project Architect or Project Engineer shall be the person named below:

Additionally, the University may require other individuals working for the Design Professional or its subconsultants to attend design-related meetings as requested by University.

**2.1.4** Design Professional shall assist University in fulfilling the requirements of the authorities and funding agencies whose interests bear on the design, cost, and construction of the Project.

**2.1.5** Design Professional shall abide by all regulations imposed by authorities having jurisdiction over the Project.

**2.1.6** Design Professional shall review site surveys; existing record documents; seismic data; mechanical, geotechnical, and other test reports; environmental documents, and any other documentation furnished by University. 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 the manner in which it be provided and needed services obtained. Design Professional may rely on the information provided by University but only to the extent such reliance shall be consistent with Design Professional's obligations under this Agreement.

**2.1.7** Review, approval or acceptance of Design Professional's work whether by University or others and whether during Schematic Design Phase, Design Development Phase, Construction 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.

**2.1.8** Design Professional shall, at no cost to University, satisfactorily correct any and all errors, omissions, deficiencies, or conflicts in the Construction Documents prepared by Design Professional or Design Professional's consultants promptly upon discovery or notice. The obligations of Design Professional to correct defective or nonconforming Work shall not in any way limit any other obligations of Design Professional.

## **2.2 SCHEMATIC DESIGN PHASE**

**2.2.1** Upon University's written direction to proceed, Design Professional shall provide Schematic Design Phase services described herein and in the Supplemental Requirements in the Exhibits including, without limitation, Schematic Design Documents for approval by University.

## **2.3 DESIGN DEVELOPMENT PHASE**

**2.3.1** Upon University's written direction to proceed, Design Professional shall provide Design Development Phase services as described herein and in the Supplemental Requirements in the Exhibits and based on Schematic Design documents approved in writing by University and any written adjustments in the scope or quality of the Project or in the Construction Budget including, without limitation, Design Development Documents for approval by University.

## **2.4 CONSTRUCTION DOCUMENTS PHASE**

**2.4.1** Upon University's written direction to proceed, Design Professional shall provide Construction Documents Phase services as described herein and in the Supplemental Requirements in the Exhibits and based on Design Development documents approved in writing by University and any written adjustments in the scope or quality of the Project or in the Construction Budget including, without limitation, Construction Documents for approval by University.

**2.4.2** The Drawings and Specifications shall be consistent with the University's General Conditions in the Exhibits and the Division 1 tailored for the Project including but not limited to any Facility requirements.

## **2.5 BIDDING PHASE**

**2.5.1** Upon University's written direction to proceed, Design Professional shall provide Bidding Phase services as described herein and in the Supplemental Requirements in the Exhibits.

**2.5.2** If the lowest responsive total bid price received exceeds the Construction Budget by more than 10%, University may, at its discretion, (1) authorize rebidding of the Project within a reasonable period of time; or (2) require Design Professional, at Design Professional's expense, to modify the Project design and the Construction Documents in order to reduce the Estimated Project Construction Cost to a level that falls within the Construction Budget. Modifications proposed by Design Professional shall require University approval prior to incorporation into the revised documents.

## **2.6 CONSTRUCTION PHASE**

**2.6.1** Upon University's written direction to proceed, Design Professional shall provide Construction Phase services as described herein and in the Supplemental Requirements in the Exhibits.

**2.6.2** The Construction Phase will commence on the date the Agreement between University and Contractor is signed by University and will terminate one year after Notice of Completion or Notice of Cessation, or in the absence of either a Notice of Completion or Notice of Cessation, one year after Final Completion.

**2.6.3** Except as otherwise provided in the Contract Documents or as directed by University, all written communications with Contractor shall be sent and received by University's Representative.

**2.6.4** Design Professional shall render design interpretations of, and design decisions regarding, the Contract Documents that are necessary for the proper execution or progress of the Work including provision of clarifications and interpretations of the Contract Documents that are consistent with the intent of the documents but which do not involve a change in the scope of the Work. Such clarifications and interpretations shall not involve an adjustment of the Contract Sum or an extension of the Contract Time.

**2.6.5** Design Professional shall not be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Work, unless Design Professional specifies, directs, recommends or approves such means, methods, techniques, sequences, procedures, or safety precautions/programs.

**2.6.6** Design Professional shall prepare drawings, specifications, supporting data, and other services in connection with Field Orders and Change Orders as required by the Supplemental Requirements in the Exhibits. Design Professional will be paid for these services, as Additional Services, if it (1) submits a written estimate of the cost of such service within {TBD} of the notification that the services are required and (2) the cost of such services do not exceed the estimated amount, as thereafter approved in writing by University. Under no circumstances will the Design Professional be entitled to compensation in excess of {TBD} for such services for any individual Change Order without prior written approval of University.

**2.6.7** Not Used.

**2.6.8** Design Professional shall provide Record Documents as described herein and in the Supplemental Requirements in the Exhibits.

**2.6.9** Design Professional shall review the Work at 11 months after Substantial Completion or Final Completion, as applicable, and shall make written recommendations to University for the correction of any deficiencies as required by the Supplemental Requirements in the Exhibits. Dates for inspections shall be as mutually agreed by the parties within the 11th month time frame. The number of work hours associated with the on-site review and preparation of written recommendations shall not exceed 32 hours excluding review and preparation necessitated in whole or in part by Design Professional's errors and omissions.

## **2.7 INDEPENDENT SEISMIC/STRUCTURAL REVIEW - NOT USED.**

## **2.8 SCHEDULE**

**2.8.1** Design Professional acknowledges that all time limits stated in this Agreement are of the utmost importance to University. Design Professional shall meet the Project Schedule, which may be revised from time to time by mutual agreement, for completion of Design Professional's services.

**2.8.2** Design Professional shall submit its proposed Work Plan for the performance of Design Professional's services within {#} calendar days following the later of (1) the execution date of this Agreement, or (2) the date on which University authorizes Design Professional to begin performing design phase services. Design Professional's Work Plan shall include without limitation, a schedule for how Design Professional will comply with the Project Schedule.

Design Professional's Work Plan shall include allowances for the periods of time required for University's review and approval of submissions and for approvals by authorities having jurisdiction over the Project. Design Professional's Work Plan, when approved by University, shall not be exceeded by Design Professional except when University and Design Professional mutually agree, in writing, to a revised Project Schedule.

**2.8.3** The total time scheduled for full completion of Design Professional's services for each phase of the Project shall not exceed the durations listed below, unless mutually agreed upon in writing by Design Professional and University. The durations for University review period listed in the Project Schedule shall be computed from the date on which a clear, complete submittal is received by University. University's failure to meet its commitment to provide written requested information or to review within the stipulated time frames shall be cause for an adjustment in the Project Schedule. However, submittals received for review which are rejected, in writing, as not meeting the deliverables required by this Agreement and the attachments thereto, shall not be cause for adjustment of the Project Schedule, and any such delay caused by such rejected submittals shall be at the sole responsibility of Design Professional.

- .1 Schematic Design Phase: Complete within # weeks plus # weeks approval time.
- .2 Design Development Phase: Complete within # weeks, plus # weeks for approval time.
- .3 Construction Documents Phase: Complete within # weeks, plus #2 weeks for approval time.

## **ARTICLE 3 ADDITIONAL SERVICES**

Unless required in Article 2 of this Agreement or in the Supplemental Requirements to be performed as part of Basic Services, the services described in this Agreement and the Supplemental Requirements are Additional Services. These Additional Services shall be paid for by University, as provided in this Agreement, in addition to the compensation for Basic Services. Design Professional shall provide Additional Services only when and as authorized in a written instrument signed by University. No Additional Services shall be compensable unless so authorized.

**ARTICLE 4 UNIVERSITY RIGHTS AND RESPONSIBILITIES**

**4.1 ADMINISTRATION**

4.1.1 University shall designate, in writing, an Administrator who will act on behalf of University with respect to this Agreement. Design Professional shall accept directives only from University's Designated Administrator and not from other University employees or consultants. University may replace University's Designated Administrator at its sole option; if this replacement is made, University shall notify Design Professional in writing.

4.1.2 University shall designate, in writing, prior to bidding, a University's Representative.

**4.2 PROVISION OF INFORMATION, SURVEYS, REPORTS AND DATA**

4.2.1 University shall have the right to make changes to the Project Program. When such changes increase the duties of Design Professional beyond those reasonably and customarily provided in Basic Services, Design Professional shall be compensated in accordance with this Agreement.

4.2.2 University shall have the right to make reasonable changes to its Bidding Documents and Design Professional shall be bound by such changes. When such changes increase the duties of Design Professional, beyond those reasonably and customarily provided in Basic Services, Design Professional shall be compensated in accordance with this Agreement.

4.2.3 University shall furnish structural, mechanical, electrical, chemical, soils, and other tests, inspections, and reports as required by law or by the Contract Documents, which are not required to be furnished by Contractor under the Contract Documents.

4.2.4 University shall update the Project Schedule as dates and durations applicable to the Project such as funding deadlines, review periods, anticipated periods of Project suspension, and construction deadlines become known.

4.2.5 If required for the performance of Design Professional's services, University shall furnish an accurate land survey of the Project site, giving, as applicable, grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and floor elevations pertaining to existing buildings, other improvements, and trees; and information in University's possession concerning available service and utility lines, both public and private.

4.2.6 University shall furnish geotechnical data when these data are reasonably deemed necessary by Design Professional, including test logs, soil classifications, soil bearing values, and other data necessary to define subsoil conditions.

4.2.7 The University shall have the right to require Design Professional and its subconsultants to participate in meetings and provide documents and data (in addition to those required by Basic Services) and to perform Additional Services, pursuant to this Agreement, whether or not such Additional Services are described in the Agreement or the Supplemental Requirements.

4.2.8 The services, information, surveys, reports, and Additional Services required by this Article 4 shall be furnished at University's expense.

**ARTICLE 5 COMPENSATION**

University will compensate Design Professional for the scope of services provided, in accordance with this Article 5 and with the other terms and conditions of this Agreement, as follows:

**5.1 COMPENSATION FOR BASIC SERVICES**

5.1.1 The fee for Basic Services shall be computed as follows:

For services rendered in accordance with this Agreement, the basis for compensation shall be a lump-sum fee in the amount of {COMPENSATION AMOUNT}, payable upon completion of each Project phase, after the review and approval by University, in accordance with the following schedule:

<u>Phase or Stage Completed</u>	<u>Portions of Total Fees to be Paid at Completion</u>
Schematic Design Phase .....	\$
Design Development Phase .....	Increase to \$
Construction Documents Phase .....	Increase to \$
Bidding Phase (Award of Construction Contract) .....	Increase to \$
	(or a proportional percentage when a portion of the Project is awarded)
Construction Completed .....	Increase to \$
Receipt of Design Professional's Record Documents .....	Increase to \$
Guarantee to Repair Period Services Completed .....	Increase to \$

## 5.2 COMPENSATION FOR ADDITIONAL SERVICES OR FOR EXTENSION OF CONTRACT TIME

5.2.1 For the Additional Services of Design Professional, as described in Article 3, including the Additional Services of consultants, compensation shall be in accordance with the attached Design Professional Rate Schedule in the Exhibits.

5.2.2 If the Contract Time initially established in the Contract Documents at the time of award is exceeded or extended by a number of days in excess of 365 calendar days through the fault of University or Contractor and through no fault of Design Professional, compensation for any Basic Services provided during this extended period of the Construction Phase of the construction contract shall be adjusted to compensate Design Professional for any additional costs reasonably incurred by Design Professional as the result of such delay, provided University has approved such adjustments in advance. These extended Basic Services shall be approved, in writing, by University and shall not include Basic Services that would have been performed under this Agreement had the initial Contract Time not been substantially exceeded or extended.

5.2.3 If the Work of the Project is suspended or abandoned for more than 12 consecutive months, and such suspension was not scheduled at the beginning of the Project, as provided under subparagraph 4.2.4, Design Professional shall be compensated for all authorized services performed prior to the receipt of written notice from University of such suspension or abandonment, together with Reimbursable Expenses then due. If the Project is resumed after being suspended for more than 14 consecutive months, Design Professional's compensation shall be adjusted as mutually agreed to compensate Design Professional for any additional costs reasonably incurred as the result of the suspension.

## 5.3 REIMBURSABLE EXPENSES

5.3.1 For Reimbursable Expenses, as described in this paragraph 5.3, only actual costs will be reimbursed in accordance with the Reimbursement Schedule in the Exhibits. Paid invoices or other proof of payment shall be submitted when requesting reimbursement.

5.3.2 Reimbursable Expenses are paid in addition to the compensation for Basic and Additional Services and are actual expenditures made by Design Professional and Design Professional's consultants in the interest of the Project.

## ARTICLE 6      PAYMENTS

### 6.1 PAYMENTS FOR BASIC SERVICES

6.1.1 Payments for Basic Services, as defined in Article 2, shall be made as stipulated in subparagraph 5.1.1.

### 6.2 PAYMENTS FOR ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES

6.2.1 Payments for Design Professional's Additional Services, as defined in Article 3, and for Reimbursable Expenses, as defined in paragraph 5.3, shall be made monthly after presentation of Design Professional's statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof.

6.2.2 Payments related to paragraph 5.2.2 shall be made monthly after presentation of Design Professional's statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof unless otherwise agreed by the parties thereto.

### 6.3 TAX BENEFITS

6.3.1 The University may seek to allocate certain tax benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended (the "Code") through its agreement with the Design Professional.

6.3.2 If The University and the Internal Revenue Service (IRS) determine that Designer is eligible and shall receive the 179D deduction allocation as a "Designer" for the purposes of Section 179D of the Code or that the Design Professional shall otherwise benefit financially from the monetization of the benefit, Designer hereby agrees to provide savings to The University in an amount and form to be determined when the financial benefit net of associated costs realized by Design Professional becomes ascertainable.

6.3.3 The University reserves the right to retain a third-party consultant (the "Consultant") to manage and administer the process of allocating the benefit derived from the Project(s).

6.3.4 Design Professional agrees to cooperate in all reasonable respects with the Consultant's efforts to obtain and monetize any such benefits derived from the Project(s) on behalf of The University.

### 6.4 PAYMENT SUBMITTAL

6.4.1 Invoices against this Agreement shall be submitted to:

UCLA Capital Programs Accounting  
1060 Veteran Avenue  
Los Angeles, CA 90095-1365

## ARTICLE 7      DESIGN PROFESSIONAL'S RECORDS AND FILES

7.1 Books and records relating to this Agreement shall be maintained in accordance with Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS). University or University's authorized representative shall have access to, the right to audit and the right to copy pertinent parts of Design Professional and Design Professional's consultants' books and

records. Such records shall include but not be limited to accounting records (hard copy, as well as computer readable data); contracts; payroll records; subconsultant agreements; vendor agreements; purchase orders; leases; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this agreement. All such books and records shall be preserved for a period of at least 3 years from the date of Final Payment under this Agreement.

7.2 Design Professional and Design Professional's consultants shall make their files available for inspection and copying by University upon reasonable notice.

7.3 Design Professional shall include appropriate language in consultants' agreements to enforce the provision of paragraph 7.2.

## **ARTICLE 8 OWNERSHIP AND USE OF DOCUMENTS**

### **8.1 DRAWINGS, SPECIFICATIONS, AND PRESENTATION MATERIALS**

8.1.1 Drawings and Specifications shall become the property of University, whether or not the Project for which they are made is executed. Design Professional shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference except as provided in paragraph 8.2. Neither University nor Design Professional shall use the Drawings and Specifications as a whole or in substantial part on other projects, but either may reuse details of the Drawings for other projects.

8.1.2 All presentation drawings, slides, and models shall become and remain the property of University.

8.1.3 University may purchase the design of the Project from Design Professional for its then fair market value. If University purchases the design of the Project, then University may use the Drawings and Specifications as a whole or in substantial part on other projects, and Design Professional may not use the Drawings and Specifications in whole, in part, or details thereof for other projects.

### **8.2 CONSTRUCTION DOCUMENTS**

8.2.1 Design Professional, upon request, shall provide copies of the Construction Documents in the number required by University for bidding and construction purposes; the reproduction expense shall be borne by University. University reserves the right to select the type of document reproduction and to establish where the reproduction will be accomplished.

8.2.2 University may use the Construction Documents, without Design Professional's consent, in connection with the Project, including without limitation, future additions, expansions, renovations, alterations, connections, repairs, information, reference, use, or occupancy.

8.2.3 Except as provided in subparagraphs 8.2.1 and 8.2.2 University will not use the Construction Documents for another project without Design Professional's written consent unless University has purchased the design from Design Professional in accordance with subparagraph 8.1.3.

### **8.3 INDEMNIFICATION**

8.3.1 University will defend, indemnify and save harmless Design Professional, its officers, agents and employees from any costs or claims for damages arising from University's use, on other projects, of the Construction Documents, the Drawings and Specifications, or the designs depicted in them. As used in this Article 8, the "use, on other projects" does not include any of the uses specified in subparagraph 8.2.2.

8.3.2 Notwithstanding paragraph 8.3.1, University will not defend, indemnify or save harmless Design Professional, its officers, agents, or employees from any costs or claims asserted or imposed by any person or entity claiming that University's use of the Construction Documents, the Drawings and Specifications, or the designs depicted in them is contrary to or in violation of any copyright, patent, trade secret, trade name, trademark, or any proprietary, contractual or legal right pertaining to their use.

## **ARTICLE 9 DISPUTES**

### **9.1 NEGOTIATION**

9.1.1 The parties will attempt in good faith to resolve any controversy or Claim arising out of or relating to this Agreement by negotiation.

### **9.2 MEDIATION**

9.2.1 Within 60 days, but no earlier than 30 days, following the earlier of (1) receipt of notice by the other party from the American Arbitration Association (AAA) of the disputing party's demand for arbitration or (2) receipt by the other party of the disputing party's notice of election to litigate, the parties shall submit the matter to non-binding mediation administered by the AAA under its construction industry mediation rules, unless waived by mutual stipulation of both parties.

### **9.3 ARBITRATION OR LITIGATION**

Disputes arising from this Agreement between Design Professional and University which cannot be settled through negotiation or mediation shall be subject to arbitration or litigation as follows:

**9.3.1 Arbitration with Contractor.** If any claim arises under the Construction Contract Documents for the Project and is submitted to arbitration, and either Contractor or University claims that the acts or omissions of Design Professional are involved, in whole or in part, any claim by University against Design Professional arising out of or in connection therewith may be asserted, at the option of University, against Design Professional in the same arbitration proceeding which shall be conducted under the procedures specified in the General Conditions of the construction contract.

**9.3.2 Litigation with Contractor.** If any claim arises under the Construction Contract Documents for the Project and is submitted to litigation, and either Contractor or University claims that the acts or omissions of Design Professional are involved, in whole or in part, any claim by University against Design Professional arising out of or in connection therewith may be asserted, at the option of University, against Design Professional in the same litigation.

**9.3.3 Arbitration without Contractor.** Disputes arising from this Agreement between Design Professional and University which cannot be settled through negotiation or mediation, and which are not resolved by arbitration or litigation pursuant to subparagraphs 9.3.1 and 9.3.2 shall be subject to arbitration without Contractor conducted in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. The following additional modifications shall be made to the aforesaid Rules of the AAA:

- .1 Civil discovery shall be permitted for the production of documents and taking of depositions. Other discovery may be permitted in the discretion of the arbitrator. All disputes regarding discovery shall be decided by the arbitrator.
- .2 University's Representative and/or University's consultants, shall if required by agreement with University, upon demand by University, join in and be bound by the arbitration.
- .3 Concurrent disputes subject to this subparagraph 9.3.3 shall be consolidated into a single arbitration unless the parties otherwise agree in writing.
- .4 No hearing shall be held prior to final completion of the Project unless University and Design Professional otherwise agree in writing.
- .5 The exclusive forum for determining arbitrability shall be the Superior Court of the State of California.
- .6 If total claims are less than \$50,000, AAA expedited procedures as modified by this Article 9 shall apply. If total claims are between \$50,000 and \$100,000 they shall be heard by a single arbitrator who shall be an attorney. If total claims are in excess of \$100,000 and are submitted to arbitration, the controversy shall be heard by a panel of 3 arbitrators, one of which shall be an attorney.
- .7 The AAA shall submit simultaneously to each party to the dispute an identical list of at least 10 names of persons chosen from the National Panel of Commercial Arbitrators, and each party to the dispute shall have 10 days from the date of receipt in which to cross off any names objected to, number the remaining names in order of preference and return the list to AAA. If the expedited procedures of the AAA are applicable, the AAA shall submit simultaneously to each party an identical list of 5 proposed arbitrators drawn from the National Panel of Commercial Arbitrators, and each party may strike 3 names from the list on a peremptory basis and return the list to AAA within 10 days from the date of receipt.

**9.3.4** Unless University and Design Professional otherwise agree in writing, the arbitration decision shall be made under and in accordance with the laws of the State of California, supported by substantial evidence. If the total of all claims or cross claims submitted to arbitration is in excess of \$50,000, the award shall contain the basis for the decision, findings of fact, and conclusions of law.

**9.3.5** Any arbitration award shall be subject to confirmation, verification or correction under the procedures and on the grounds specified in the California Code of Civil Procedure including without limitation Section 1296.

**9.3.6** The expenses and fees of the arbitrators and the administrative fees of the AAA shall be divided among the parties equally. Each party shall pay its own counsel fees, witness fees, and other expenses incurred for its own benefit.

#### **9.4 PERSONAL INJURY, WRONGFUL DEATH OR PROPERTY DAMAGE**

**9.4.1** Claims for personal injury, wrongful death, or property damage (other than property damage to University) shall not be subject to arbitration under Paragraph 9.3.3.

**9.5.1** The University may offset against the outstanding contract balance the amount of the University's own affirmative claims against the Design Professional provided such claims are based upon alleged breaches of this Agreement or alleged failure to conform to the professional standard care set forth in Article 1.2 of this Agreement. The University shall inform the Design Professional in writing of its intention to offset on or before exercising its right to offset under this Agreement. Within three days following receipt of such written notice, the Design Professional may elect to submit the issue of the University's intention to offset to non-binding mediation administered by the AAA. Such mediation shall take place not less than 15 days and not more than 45 days following the date that the University receives notice of Design Professional's election to mediate regarding the University's intention to offset. The University's obligation to pay any outstanding contract balance shall be stayed and tolled until the first business day following the date of the mediation concerning the University's intention to offset. If the University decides to exercise its right to offset following mediation regarding the University's intention to offset, notice of such offset shall be given to Design Professional by University in writing. If Design Professional does not demand mediation concerning the University's intention to offset, then the University's notice of its intention to offset shall be deemed notice of the decision to offset by the University. Irrespective of whether Design Professional elects to mediate the issue of the University intention to offset, Design Professional may dispute the University's decision to offset by demanding arbitration or commencing litigation pursuant to the terms of Article 9.

#### **ARTICLE 10 INDEMNIFICATION AND INSURANCE**

## 10.1 INDEMNIFICATION

**10.1.1** Design Professional shall indemnify, defend, and hold harmless University, and its regents, officers, employees, agents, and representatives (collectively, "Indemnitee") against all liability, demands, claims, costs, damages, injury including death, settlements, and expenses (including without limitation, interest and penalties) incurred by Indemnitee ("Losses") arising out of the performance of services or Design Professional's other obligations under this Agreement, but only in proportion to and to the extent such Losses are caused by or result from (1) the negligent acts or omissions of Design Professional, its officers, agents, employees, subcontractors, consultants or any person or entity for whom Design Professional is responsible (collectively, "Indemnitor"); (2) the breach by Indemnitor of any of the provisions of this Agreement; or (3) willful misconduct by Indemnitor.

**10.1.2** The indemnification obligations under this Article 10, shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the Losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. The obligation to defend shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Indemnitor's reasonable defense costs (including attorney and expert fees) incurred in providing a defense for Indemnitees shall be reimbursed by University except to the extent such defense costs arise, under principles of comparative fault, from Indemnitor's (a) negligent acts or omissions; (b) breach of any of the provisions of this Agreement; or (c) willful misconduct.

**10.1.3** Design Professional shall indemnify, defend, and save harmless Indemnitee from and against all loss, cost, expense, royalties, claims for damages or liability, in law or in equity, including, without limitation, attorneys' fees, court costs and other litigation expenses that may at any time arise or be set up for any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark or any other proprietary right of any person or entity in consequence of the use on the Project by Indemnitee of the design or construction documents (including any method, process, product, concept specified or depicted) supplied by Indemnitor in the performance of this Agreement.

**10.1.4** Nothing in this Agreement, including the provisions of this Article 10 shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

## 10.2 INSURANCE REQUIREMENTS

Design Professional, at Design Professional's sole cost and expense, shall insure its activities in connection with this Agreement and shall obtain, keep in force, and maintain insurance as listed below. The coverages required under Paragraph 10.2 shall not in any way limit the liability of Design Professional.

**10.2.1** Commercial-Form General Liability Insurance with coverage and minimum limits as follows:

.1	Each Occurrence	{TBD}
.2	Products Completed, Operations Aggregate	{TBD}
.3	Personal and Advertising Injury	{TBD}
.4	General Aggregate	{TBD}

**10.2.2** Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles, with a combined single limit of no less than {TBD} per accident.

**10.2.3** Professional Liability Insurance, with limits of {TBD} per claim and {TBD} in the aggregate. At the option of University and in its sole discretion, University may require Design Professional to purchase project specific professional liability insurance for the Project as a reimbursable cost with the minimum limits.

**10.2.4** If the above insurance (subparagraphs 10.2.1-10.2.3) is written on a claims-made basis, it shall be maintained continuously for a period of no less than 3 years after the date of Final Completion. The insurance shall have a retroactive date of placement prior to or coinciding with the date services are first provided that are governed by the terms of this Agreement and shall include, without limitation coverage for professional services as called for in this Agreement. Insurance required by subparagraphs 10.2.1-10.2.3 shall be (i) issued by companies that have a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's).

**10.2.5** Workers' Compensation as required by law in the state in which work is performed and Employer's Liability insurance with coverage and minimum limits as follows:

Each Employee	\$1,000,000.00
Each Accident	\$1,000,000.00
Policy Limit	\$1,000,000.00

Insurance required by this subparagraph 10.2.5 shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's); or (ii) that are acceptable to the University.

**10.2.6** Design Professional, upon the execution of this Agreement, shall furnish University with Certificate of Insurance evidencing compliance with this Article 10, including the following requirements:

- .1 Design Professional shall have the insurance company complete University's form, Certificate of Insurance in the Exhibits. If Design Professional's insurance company refuses to use the University's Certificate of Insurance form, it

- must provide a Certificate of Insurance (and endorsements, if needed) evidencing compliance with Paragraph 10.2 and Special Provisions 1 through 3 on the Certificate of Insurance Exhibit. It alone constitutes evidence of insurance
- .2 Provide that coverage cannot be canceled without advance written notice to University, in accordance with policy provisions.
  - .3 If insurance policies are canceled for non-payment, University reserves the right to maintain policies in effect by continuing to make the policy payments and assessing the cost of so maintaining the policies against Design Professional.
  - .4 University, University's officers, agents, employees, consultants, University's Representative, and University's Representative's consultants, regardless of whether or not identified in the Contract Documents or to Design Professional in writing, will be included as additional insureds on Design Professional's general liability policy for and relating to the Work to be performed by Design Professional and its consultants. Design Professional's general liability insurance policy shall name University as an additional insured pursuant to additional insured endorsement CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04). The General Liability coverage shall contain a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees. Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance. This requirement shall not apply to Worker's Compensation and Employer's Liability Insurance. The Professional Liability insurance policy shall include Contractual Liability Coverage or endorsements to the insurance policies for Contractual Liability Coverage for liability that would exist in the absence of the contract.
  - .5 The General Liability and the Professional Liability insurance policies shall apply to the negligent acts, or omissions of Design Professional, its officers, agents, employees, and for Design Professional's legal responsibility for the negligent acts or omissions of its consultants and anyone directly or indirectly under the control, supervision, or employ of Design Professional or Design Professional's consultants.

## **ARTICLE 11 STATUTORY AND OTHER REQUIREMENTS**

### **11.1 NONDISCRIMINATION**

**11.1.1** In connection with the performance of the Design Professional pursuant to this Agreement, Design Professional shall provide equal treatment to, and shall not willfully discriminate against or allow harassment of any employee or applicant for employment on the basis of: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). Design Professional will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above. Such equal treatment shall apply, but not be limited to the following: employment; upgrade; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Design Professional also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Design Professional will, in all solicitations or advertisements for employees placed by or on behalf of the Design Professional, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). For purposes of this provision: (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

### **11.2 PREVAILING WAGE RATES**

**11.2.1** For purposes of the Article, the term subcontractor or consultant shall not include suppliers, manufacturers, or distributors.

**11.2.2** Design Professional shall comply and shall ensure that all Subcontractors or Subconsultants comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, and 1775, 1776, 1777.5, and 1777.6 of the State of California Labor Code. Compliance with these sections is required by this Contract. The Work under this Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. References to "Covered Services" hereinafter shall mean services performed pursuant to this Agreement that are covered by the aforementioned provisions as implemented by the State of California Department of Industrial Relations.

**11.2.3** The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Project is to be performed for each craft, classification, or type of worker required to perform the Covered Services hereunder. A schedule of the general prevailing per diem wage rates will be on file at University's principal facility office and will be made available to any interested party upon request. By this reference, such schedule is made part of the Agreement. Design Professional shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Design Professional in the execution of the Covered Services hereunder. Design Professional shall cause all subcontracts or consultant agreements to include the provision that all subcontractors or consultants shall pay not less than the prevailing rates to all workers employed by such subcontractor or consultants in the execution of the Covered Services hereunder. Design Professional shall forfeit to University, as a penalty, not more than \$200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the



Covered Services hereunder performed by Design Professional or any subcontractor or consultant. The amount of this penalty shall be determined by the Labor Commissioner pursuant to applicable law. Such forfeiture amounts may be deducted from the Design Professional's fee. Design Professional shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Covered Services hereunder, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker.

### **11.3 PAYROLL RECORDS**

**11.3.1** Design Professional and all subcontractors or consultants shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyworker, apprentice, or other employee employed in connection with the Covered Services hereunder. All payroll records shall be certified as being true and correct by Design Professional or subcontractors or consultants keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of Design Professional on the following basis:

- .1 A certified copy of an employee's payroll records shall be made available for inspection or furnished to such employee or the employee's authorized representative on request.
- .2 A certified copy of all payroll record shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
- .3 A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Design Professional or subcontractors or consultants. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Design Professional awarded the Agreement or performing the Agreement shall not be marked or obliterated.

**11.3.2** Design Professional shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Design Professional shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and Design Professional shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of the Paragraph or with the State of California Labor Code Section 1776, Design Professional shall have 10 days in which to comply following receipt of notice specifying in what respects Design Professional must comply. Should noncompliance still be evident after the 10 day period, Design Professional shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Design Professional's fee.

### **11.4 APPRENTICES**

**11.4.1** Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by Design Professional and subcontractors or consultants as apprentices for the Covered Services hereunder. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code, including but not limited to Section 1777.5. The Design Professional bears responsibility for compliance with this section for all apprenticeable occupations.

**11.4.2** Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only for the Covered Services hereunder in the craft or trade to which the apprentice is indentured.

**11.4.3** When Design Professional or subcontractors or consultants employ workers in any apprenticeship craft or trade for the Covered Services hereunder, Design Professional or subcontractors or consultants shall apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the area of the Project site, for a certificate approving Design Professional or subcontractors or consultants under the apprenticeship standards for the employment and training of apprentices in the area of the Project site. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeyworkers who shall be employed in the craft or trade on the Covered Services hereunder. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 hour of apprentice work for each 5 hours of journeyworker work, except as permitted by law. Design Professional or subcontractors or consultants shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeyworkers fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.

**11.4.4** "Apprenticeship craft or trade", as used in this Paragraph, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

**11.4.5** If Design Professional or subcontractors or consultants employ journeyworkers or apprentices in any apprenticeship craft or trade in the area of the Project site, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the Project site are contributing, Design Professional and subcontractors or

consultants shall contribute to the fund or funds in each craft or trade in which they employ journeyworkers or apprentices on the Covered Services hereunder in the same amount or upon the same basis and in the same manner done by the other contractors. Design Professional may include the amount of such contributions in computing its compensation under the Agreement; but if Design Professional fails to do so, it shall not be entitled to any additional compensation therefore from University.

**11.4.6** In the event Design Professional willfully fails to comply with this Paragraph 11.4, it will be considered in violation of the requirements of the Agreement.

**11.4.7** Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Design Professional or subcontractors or consultants of journeyworker trainees who may receive on-the-job training to enable them to achieve journeyworker status in any craft or trade under standards other than those set forth for apprentices.

## **11.5 WORK DAY**

**11.5.1** Design Professional shall not permit any worker providing Covered Services to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Design Professional shall forfeit to University, as a penalty, \$25 for each worker employed in the execution of the Agreement by Design Professional, or any subcontractors or consultant, for each day during which such worker is required or permitted to work providing Covered Services more than 8 hours in any 1 day and 40 hours in any 1 calendar week in violation of the terms of this Paragraph or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the compensation otherwise due under this Agreement. Design Professional and each subcontractor or consultant shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed under this Agreement, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

## **11.6 PATIENT HEALTH INFORMATION**

**11.6.1** Design Professional acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). Design Professional shall immediately notify University's Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. Design Professional will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If Design Professional, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, Design Professional will report such actions immediately to University's Representative. Design Professional will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. Design Professional will report to University's Representative within five (5) days after Design Professional gives University's Representative notice of the event/action of the steps taken to prevent future occurrences.

## **ARTICLE 12      EXTENT OF AGREEMENT**

### **12.1 AUTHORITY OF AGREEMENT**

**12.1.1** This Agreement represents the entire and integrated agreement between University and Design Professional and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument in the form of the Amendment in the Exhibits signed by both University and Design Professional.

### **12.2 EXHIBITS**

**12.2.1** The following exhibits are incorporated and made part of this Agreement:

- Exhibit A: General Conditions of University's Bidding Documents; Specifications, Division 1, General Requirements
- Exhibit B: Design Professional Rate Schedule for Additional Services
- Exhibit C: Supplemental Requirements
- Exhibit D: Not Used
- Exhibit E: Reimbursement Schedule
- Exhibit F: Not Used
- Exhibit G: Project Program
- Exhibit H: University of California Certificate of Insurance
- Exhibit I: Amendment
- Exhibit J: Not Used
- Exhibit K: Self-Certification
- Exhibit L: Final Distribution of Contract Dollars

### **12.3 THIRD-PARTY BENEFICIARIES**

Nothing contained in this Agreement is intended to make the construction Contractor or any construction Subcontractor (regardless of tier), any employee or agent of the construction Contractor or any Subcontractor or any person, including any consultant of Design Professional (regardless of tier), a third-party beneficiary of any obligations between University and Design Professional.

## 12.4 SURVIVAL

The provisions of this Agreement which by their nature survive expiration or termination of the Agreement or Final Completion of the Project or the performance of services under this Agreement, including any and all warranties, indemnities, payment obligations, and University's right to audit Design Professional's and Design Professional's consultants' books and records, shall remain in full force and effect after any expiration or termination of the Agreement or Final Completion of the Project or the performance of services under this Agreement.

## **ARTICLE 13**      **FEDERAL AND STATE GRANTS**

In the event that a federal or state grant or other federal or state financing is used in the funding of this Project, Design Professional shall permit the funding agency or its designee access to, and grant the funding agency the right to examine documents covering the services performed under this Agreement. Design Professional shall comply with applicable federal or state agency requirements including, but not limited to, the requirements regarding hours, overtime compensation, nondiscrimination, and contingent fees.

## **ARTICLE 14**      **NOTICES**

### 14.1 UNIVERSITY

14.1.1 Any notice may be served upon University by delivering it, in writing, to University at the address set forth on the last page of this Agreement, or by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to University at the address set forth on the last page of this Agreement, or by sending a facsimile of the notice to University's facsimile number set forth on the last page of this Agreement. Notice is effective only if and when it is actually received.

### 14.2 DESIGN PROFESSIONAL

14.2.1 Any notice may be served upon Design Professional by delivering it, in writing, to Design Professional at the address set forth on the last page of this Agreement, by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to Design Professional at the address set forth on the last page of this Agreement, or by sending a facsimile of the notice to Design Professional's facsimile number set forth on the last page of this Agreement. Notice is effective only if and when it is actually received.

## **ARTICLE 15**      **SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon University and Design Professional and their respective successors and assigns. Neither the performance of this Agreement nor any part thereof, nor any monies due or to become due hereunder, may be assigned by Design Professional without the prior written consent and approval of University.

### 15.1 DESIGN PROFESSIONAL'S DEATH OR INCAPACITATION

15.1.1 If Design Professional transacts business as an individual, upon Design Professional's death or incapacitation, University may, at its option, terminate this Agreement as of the date of such event. If so terminated, neither Design Professional nor Design Professional's estate shall have any further right to perform hereunder, and University shall pay Design Professional or the estate the compensation payable under Article 5 for any services rendered prior to this termination not theretofore paid. This compensation shall be reduced by the amount of additional costs that will be incurred by University by reason of this termination.

15.1.2 If there is more than one Design Professional, and any one of them dies or becomes incapacitated, and the others continue to render the services covered herein, University will make payments to those continuing as though there had been no such death or incapacitation; University will not be obliged to take any account of the person who died or became incapacitated, or to make any payment to this person or this person's estate. These provisions shall apply in the event of progressive or simultaneous occasions of death or incapacitation among any group of persons named as Design Professional herein if death or incapacitation befalls the last member of this group before the services under this Agreement are fully performed, then the rights set forth under subparagraph 15.1.1 shall apply.

## **ARTICLE 16**      **TERMINATION OF AGREEMENT**

### 16.1 UNIVERSITY-INITIATED TERMINATION

16.1.1 If University determines that Design Professional has failed to perform in accordance with the terms and conditions of this Agreement, University may terminate all or part of the Agreement for cause. This termination shall be effective if Design Professional does not cure its failure to perform within 10 days (or more, if authorized in writing by University) after receipt of a notice of intention to terminate from University specifying the failure in performance. If a termination for cause does occur, University will have the right to withhold monies otherwise payable to Design Professional until the Project is completed. If University incurs additional costs, expenses, or other damages due to the failure of Design Professional to properly perform pursuant to the Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to Design Professional upon completion of the Project. If the costs, expenses, or other damages incurred by University exceed the amounts withheld, Design Professional shall be liable to University for the difference.

16.1.2 University may terminate this Agreement for convenience at any time upon written notice to Design Professional, in which case University will pay Design Professional in full for all services performed and all expenses incurred under this Agreement up to and including the effective date of termination. In ascertaining the services actually rendered to the date of termination, consideration will be

given to both completed Work and Work in progress, whether delivered to University or in the possession of Design Professional, and to authorized Reimbursable Expenses. No other compensation will be payable for anticipated profit on unperformed services.

**16.2 DESIGN PROFESSIONAL-INITIATED TERMINATION**

**16.2.1** Design Professional may terminate this Agreement for cause if University fails to cure a material default in performance within a period of 30 days, or such longer period as Design Professional may allow, after receipt from Design Professional of a written termination notice specifying the default in performance. In the event of termination for cause by Design Professional, University will pay Design Professional in accordance with subparagraph 16.1.2.

**16.3 DOCUMENTS AND MATERIALS**

**16.3.1** In the event of Agreement termination by either party for any reason, University reserves the right to receive, and Design Professional shall promptly provide to University, all Drawings, Specifications, models, and other documents, data, and materials prepared or generated by Design Professional and its subconsultants for the Project. In the event of termination, any dispute regarding the amount to be paid under Article 16 shall not derogate from the right of University to receive and use any such documents or materials.

**ARTICLE 17      STATISTICAL REPORTING**

**17.1.1** At the commencement of performance, Design Professional shall complete and submit, and require each subconsultant who performs services under this Agreement to complete and submit, a certification in the form of the Self-Certification in the Exhibits. At the completion of work, Design Professional shall complete and submit a report of the distribution of compensation received under this Agreement in the form of the Final Distribution of Contract Dollars in the Exhibits.

IN WITNESS WHEREOF, UNIVERSITY and DESIGN PROFESSIONAL have executed this Agreement as of the date first written above (see Cover Page).

DESIGN PROFESSIONAL FIRM NAME:

\_\_\_\_\_  
(Printed Name & Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

DESIGN PROFESSIONAL ADDRESS:

DESIGN PROFESSIONAL PHONE NUMBER:

DESIGN PROFESSIONAL FACSIMILE NUMBER:

DESIGN PROFESSIONAL EMPLOYER I.D.  
NUMBER:

UNIVERSITY:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

\_\_\_\_\_  
(Printed Name & Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

UNIVERSITY ADDRESS:

UNIVERSITY FACSIMILE NUMBER:

UNIVERSITY PROJECT MANAGER:

**EXHIBIT A**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

**GENERAL CONDITIONS OF UNIVERSITY'S BIDDING DOCUMENTS,**  
**SPECIFICATIONS, DIVISION 1, GENERAL REQUIREMENTS**

**(attached)**

SAMPLE

**EXHIBIT B**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**  
**DESIGN PROFESSIONAL RATE SCHEDULE FOR ADDITIONAL SERVICES**

SAMPLE

# **EXHIBIT C** **TO THE** **EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

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## **ARTICLE 1 - BASIC SERVICES - GENERAL**

Design Professional shall provide the following services as Basic Services.

### **1.1 EXAMINATION OF SITE**

**1.1.1** At the beginning of the first applicable design phase, Design Professional and its consultants shall visit the Project site to become familiar with existing site conditions, including the site location and size, utility capacities, and connection options of external utilities. Prior to the completion of the Construction Documents, Design Professional and its consultants shall visit the Project site to coordinate their documents with current site conditions.

**1.1.2** For alteration projects only, visit all relevant areas of the existing buildings to be altered. Include architectural, mechanical, plumbing and electrical (including fire alarm) disciplines. Visually survey the following for consistency with the available documentation, evidence of chronic problems, and coordination with proposed new work:

- .1 Adjacent site perimeter (a minimum of 40 feet from building) for accessible path of travel, fire access, drainage conditions, and distance to adjacent buildings.
- .2 Building exterior (from the ground and roof surface).
- .3 Interior spaces including storage, circulation, mechanical, electrical and telecom rooms.
- .4 Rooftop including penthouses.
- .5 Ceiling spaces above suspended lay-in ceiling tiles at several areas representing standard conditions and in areas with atypical ceiling heights or configurations.
- .6 Concealed spaces accessible via access panel at several areas representing standard conditions and in areas with atypical concentrations of services, specifically at firewalls.

**1.1.3** Notify University's Designated Administrator of rooms or areas inaccessible due to locked doors, hard-suspended ceilings, heavy furniture and equipment or critical functions. No destructive testing shall be done except by specific written approval.

### **1.2 PROGRAM AND BUDGET REVIEW**

**1.2.1** University will furnish the Project Program to Design Professional at the start of the first applicable design phase. Design Professional shall evaluate the Project's programmatic requirements, promptly call attention to any discrepancy contained therein, and request direction from University's Designated Administrator.

**1.2.2** Prior to completing each applicable design phase submittal, Design Professional shall compare the submittal documents to the programmatic requirements and call to the attention of University's Designated Administrator any discrepancy contained therein and request direction. Design Professional shall be prepared to present program or design adjustment alternatives for University consideration when adjustments are needed to bring the Project scope, Project schedule, and Construction Budget into alignment.

### **1.3 REGULATORY AGENCY REVIEWS AND APPROVALS**

**1.3.1** The design and construction of University projects shall comply with the applicable laws, rules, and regulations of the California Code of Regulations (CCR). Design Professional is responsible for the design's compliance with these laws, rules and regulations. The following CCR titles contain requirements applicable to University construction work:

- Title 8, Industrial Relations
- Title 17, Public Health
- Title 19, Public Safety
- Title 20, Public Utilities and Energy
- Title 21, Public Works
- Title 24, California Building Standards Code
  - Part 1, Building Standards Administrative Code
  - Part 2, California Building Code
  - Part 3, California Electrical Code
  - Part 4, California Mechanical Code
  - Part 5, California Plumbing Code
  - Part 6, California Energy Code
  - Part 7, California Elevator Safety Construction Code
  - Part 8, California Historical Building Code
  - Part 9, California Fire Code
  - Part 10, California Code for Building Conservation
  - Part 11, California Green Building Standards Code
  - Part 12, California State Reference Standards Code
- Title 25, Housing and Community Development
- Title 26, Toxics

**1.3.2** Building codes, standards, federal and state legislation, and federal, state, and regional agency regulations affect University projects. In addition to the CCR titles listed above, University construction work shall also comply with the following Codes or Acts. In

general, in the case of conflicts between codes, the more stringent conditions shall apply. Confirm particular instances with University's Representative.

National Fire Protection Association (NFPA)  
Federal Occupational Safety and Health Act of 1970 (OSHA)  
Accessibility Guidelines for the Americans with Disabilities Act, Title 24 ADAAG (ADA)  
California Coastal Commission Regulations

**1.3.3** University is not subject to the building ordinances and zoning requirements of local political jurisdictions; building permits are not required for on-campus projects. Off-campus projects are required to comply with all applicable local building ordinances and zoning requirements. University is not required to obtain building permits from local jurisdictions for construction on real estate owned or controlled by University. However, the design and construction of utility connections and fire-protection systems may require liaison with local jurisdictions. This liaison shall be coordinated only through University's Designated Administrator. Construction or encroachment upon city- or county-owned property is subject to local codes and permit requirements.

**1.3.4** University is its own enforcement agency for all code requirements except those regarding fire code, access compliance, and medical facilities. For these code requirements, University projects are subject to plan approval and enforcement authority by the state agencies listed below. Design Professional shall obtain reviews from, submit applications to, and obtain approvals/permits from these agencies. University's Designated Administrator will arrange to pay application fees that may be required.

.1	Fire Code	Office of the State Fire Marshal (SFM).
.2	Medical Facilities	Health Care Access and Information (HCAI)
.3	Access Compliance	California Department of General Services, Division of the State Architect (State funded projects); Campus Architect (Non-state funded projects).

**1.3.5** By agreement with the SFM, the effective code date for new and remodeled University building projects is the edition of the CCR, Title 24, in effect at the time of the first submittal of Preliminary Drawings as defined in the State Administrative Manual. The date of receipt of this first submittal is the official "date of record" for the Project. The edition of CCR, Title 24, in effect on that date will be applied for the duration of the Project. In the event Preliminary Drawings are not submitted to the SFM regional office prior to submission of Construction Documents (defined as Working Drawings and Specifications), the edition of the CCR, Title 24, in effect on the date of receipt of the Construction Documents by the SFM regional office will apply.

**1.3.6** It is recommended that preliminary State Fire Marshal (SFM), or the local designee, and Division of State Architect (DSA) reviews occur during Schematic Design (if applicable) and Design Development (if applicable). Review and approval by the SFM and DSA are required at Construction Documents completion. Design Professional shall arrange all reviews with DSA for access compliance and with SFM for fire safety and code compliance. Design Professional shall incorporate corrections required by DSA and SFM into the Contract Documents before advertisement for bid.

**1.3.7** Design Professional shall assist University in making applications to, and obtain approvals/permits from the Southern California Air Quality Management District.

**1.3.8** Design Professional shall incorporate the following University policies and Campus Standards (current as of the execution date of this Agreement) where applicable to their work:

.1	University of California Seismic Safety Policy including revisions.
.2	University of California Policy on Sustainable Practices.
.3	All UCLA Campus Standards (refer to: <a href="http://www.capitalprograms.ucla.edu/Contracts/UCLACampusStandards">http://www.capitalprograms.ucla.edu/Contracts/UCLACampusStandards</a> ).

**1.3.9** Not Used.

**1.3.10** For major State-funded projects, approval of the completed Design Development documents by the State Public Works Board is required, as well as State Department of Finance approval of the completed Construction Documents.

## **1.4 UNIVERSITY REVIEWS AND APPROVALS**

**1.4.1** Each design phase is subject to review and approval by University. Project items to be reviewed include design and cost, site, seismic safety, and environmental impact.

**1.4.2** Other University personnel, external consultants, or public agencies may also review Design Professional's submittals at University's discretion or as required by applicable regulations. These reviews shall not relieve Design Professional of responsibility for errors and omissions in Design Professional's work. Design Professional shall cooperate with the reviewers and participate in the reviews. Meetings to discuss University policy and legal requirements are required.

**1.4.3** University's review of Drawings and related documents at the various stages of project development is intended to determine whether:

.1	Design Professional has completed the work of that phase,
.2	Design Professional's design satisfies University's programmatic needs,
.3	The Project design is within the stipulated scope and Project budget, and
.4	The Project is in conformance with University's administrative policies and procedures.

**1.4.4** University will review the submitted drawings at all stages and provide written comments.

**1.4.5** University will review the submitted specifications at three stages and provide written comments. The first Construction Documents submittal review will cover general issues (e.g., format and Division 1 references). The second Construction Documents submittal review covers all sections for content, consistency and completeness. The final Construction Documents review is the final review for corrections and typographical mistakes.

**1.4.6** Design Professional shall respond in writing (item by item) to University's review comments using University's format.

**1.4.7** SEISMIC REVIEW: Not Used.

**1.4.8** Not Used.

**1.4.9** ARCHITECTURAL DESIGN REVIEW: Not Used.

## **1.5 REGENTS' (OR REGENTS' DELEGATED AUTHORITY'S) DESIGN APPROVAL**

**1.5.1** This Project requires design review by the Regents of University of California (or the Regents' Delegated Authority). Design Professional shall furnish presentation drawings, sustainable design information, and other support materials for use in said design review process. Drawings and written documents for presentations to said parties shall be simple, clear and concise.

**1.5.2** Furnish these materials in accordance with the Project schedule provided by University. Design Professional shall attend meetings with representatives of University regarding said presentation materials.

**1.5.3** Should the Regents (or the Regents' Delegated Authority) fail to approve the design or aspects of the design, Design Professional shall, at its own expense, revise the design unless Design Professional has been given prior written approval from University to proceed with the Design Development phase, in which case the revision of the design shall be an Additional Service in accordance with Article 7.

## **1.6 CONSTRUCTION COST/VALUE CONTROL - NOT USED.**

## **1.7 QUALITY ASSURANCE**

**1.7.1** Design Professional shall demonstrate an effective internal Quality Assurance (QA) program that results in well-coordinated and consistent submittal documents. University's preparation guidelines for drawings and specifications shall be incorporated into Design Professional's QA program.

**1.7.2** University may perform or may choose to have an outside consulting firm perform a quality assurance review including plan check and/or constructability analysis on the submitted documents. Design Professional shall review the written comments produced by this review and respond to the comments (item by item) in writing. Design Professional shall attend meetings as necessary to resolve issues.

## **1.8 DRAWING SUBMITTAL REQUIREMENTS**

**1.8.1** Design Professional shall submit one set hardcopy and two sets of executable digital files on disk, one formatted in AutoCAD.dwg, the other as PDF. When required, hardcopies of submittals shall be on bond paper. Final Record Drawings shall be furnished as specified in Article 6.13 herein.

**1.8.2** Each copy and each disk shall be fully labeled with the Project name, Project number, date, names and contact information for the entity(ies) responsible for preparation and submittal of the files and disks, and the sequence number of the disk in the set. Files may be submitted compressed, but the decompression utility used (executable preferred) shall be fully described with directions included on the transmittal as well as in digital form. Design Professional shall provide an index of digital file drawings and their associated XREF. Unused layers and blocks shall be purged from the drawing file. Directions for restoring the directory structure shall be included, and all data necessary to plot the files, such as PCP, PNP, and CTB files, layering, pens, fonts, and color information shall be provided. Design Professional shall "bind" all plot sheets. Digital file drawings (in AutoCAD, Revit or equal approved in advance by University's Designated Administrator) shall be identical to the required hardcopy submittals.

**1.8.3** The digital file name shall match the drawing number with brief description. The complexity of the files/folders shall be matched to the scale of the Project.

**1.8.4** Submittal of the digital drawing files shall be considered a legal submittal of any fonts, menus, line types, symbols (blocks or entities), and any proprietary information incorporated into the drawings. If symbols (blocks or entities) or other information is copyrighted, University will have the right to use and to distribute all such information at no cost or liability. Copyright language shall not be included on the Drawings.

**1.8.5** Design Professional shall coordinate with University's Designated Administrator to insure room numbering in accordance with University requirements.

**1.8.6** In addition to the standard submittal format requirements, presentation graphics materials shall be submitted to University as digital files in the .PDF format.

1.8.7 Drawing Preparation Guidelines containing more detailed requirements will be provided to Design Professional at the beginning of the first applicable design phase.

## 1.9 SPECIFICATION SUBMITTAL REQUIREMENTS

1.9.1 Specifications, in CSI format, shall consist of one original one-sided set in hard copy and two sets of executable digital files on CD-ROM (one formatted in Microsoft Word [version as approved by University's Designated Administrator], the other as an Adobe .PDF). When required, hardcopies of submittals shall be on bond paper. Each specification section shall be saved as a document file named with the corresponding Master format six-digit number (e.g., 260110.docx).

1.9.2 Design Professional shall use the format and terminology standards approved by University. Specifications shall be:

- .1 Complete, coordinated and consistent with each other and the drawings.
- .2 Coordinated with University's General Conditions and General Requirements.
- .3 Written for a two-party contract between University and Contractor.
- .4 Written to describe University's Representative as University's acting functionary.
- .5 Written with open specifications for material and equipment except in specifically permitted exceptions.

1.9.3 Specifications Preparation Guidelines containing more detailed examples of the application of the requirements listed above will be provided to Design Professional at the beginning of specification production.

## 1.10 DOCUMENT SUBMITTAL TIMING

1.10.1 Not Used.

1.10.2 Design Professional shall submit the required documents for each applicable design phase in two parts and approximately two weeks apart, unless otherwise stipulated by University's Designated Administrator. The first part of the submittal shall include Drawings and Specifications, Design and System Narratives, LEED™ Project Checklist referenced in Article 1.13 herein, and similar items. The second part of the submittal shall include items such as Special Inspections and Testing Requirements, Calculations, Sole Source List, Material Board, and the Energy Model and related information.

## 1.11 CONSTRUCTION PHASING

1.11.1 Construction phasing, if applicable, will require review and approval by University's Designated Administrator. Design Professional shall clearly show construction phasing requirements on the drawings and also describe them in the specifications. Design Professional shall also provide a construction phasing schedule in bar chart, or in Critical Path Method (CPM) form as an additional service.

## 1.12 PARTNERING - NOT USED.

## 1.13 SUSTAINABLE PRACTICES POLICY

1.13.1 Design Professional shall:

- .1 Meet the goal set by University to outperform the required provisions of Title 24 California Energy Code efficiency requirements by at least 20% or meet the applicable whole-building energy performance targets in the UC Policy on Sustainable Practices. Where possible within the constraints of program needs and standard budget parameters, projects shall outperform Title 24 by 30% or achieve the more stringent whole-building energy performance stretch targets. Coordinate with University's Designated Administrator to determine the project-specific whole-building energy performance targets under UC Policy.
  - .1 For Acute Care Facilities Only: Coordinate with University's Designated Administrator to comply with current energy efficiency standards developed by campus and medical center to satisfy the UC Policy on Sustainable Practices.
- .2 Coordinate with University's Designated Administrator to determine the applicable project LEED™ requirements and substantiation. Include LEED™ requirements in specifications submittals to ensure the achievement of points and credits identified for target ranking. Projects shall pursue the highest feasible LEED™ project ranking as determined by the University's Designated Administrator. Projects are encouraged to achieve "Gold" or "Platinum" rankings. Furnish cost information and strategies to support these options. Manage LEED™ process throughout design and construction phases according to project scope and prepare design and construction submittals to Green Building Certification Institute (GBCI) for review and certification.
  - .1 For New Construction Projects: Register the project with the GBCI and manage the project's LEED™ online website in coordination with the University's Designated Administrator. Design and engineer the project to achieve the target rating under the most current USGBC LEED™ for Building Design and Construction (BD+C) rating system at time of registration. In no case shall the project be designed to achieve less than a "Silver" ranking. Achieve at least two points within the available credits in the LEED™ BD+C Water Efficiency category.
  - .2 For Renovation or Interiors Projects Valued Over \$5 Million: Register the project with the GBCI and manage the project's LEED™ online website in coordination with the University's Designated Administrator. Design and engineer the project to achieve the target rating under the most current USGBC

- LEED™ for Interior Design and Construction (ID+C) rating system at time of registration. In no case shall the project be designed to achieve less than a “Silver” ranking.
- .3 For Renovation or Interiors Projects That Do Not Satisfy the LEED™ “Minimum Program Requirements” or are Valued Under \$5 Million: Design and engineer the project to incorporate sustainable measures consistent with current campus policies and standards. Project characteristics shall not contradict previously established campus-based LEED™ credits awarded to other projects. Periodically review sustainable measures with University's Designated Administrator and, if requested, furnish cost information for optional strategies or features that would achieve LEED™ project rankings.
  - .4 For Acute Care Facilities Only: Coordinate with University's Designated Administrator to comply with current Green Building standards developed by campus and medical center to advance UC Sustainable Practices Policy goals. Compliance strategy shall reference standards of the current LEED™ for Healthcare Rating System.
  - .5 All projects, whether or not pursuing LEED™ certification, must demonstrate compliance with Mandatory Measures under the CalGreen Building Code, using University's designated form. Applicable LEED™ project documentation and actions may be used to demonstrate compliance.
- .3 Savings-by-Design: Design Professional shall enroll in and participate in the California Savings-by-Design Program, if applicable, beginning during the first design phase. Design Professional shall attend meetings with representatives of the program to identify energy conservation measures or combinations of measures for analysis. Design Professional shall furnish to University estimated construction costs, estimated maintenance costs, estimated equipment life spans and technical information.
  - .4 For GBCI-Registered Projects: Prepare and submit both a hard copy and an electronic copy of the current LEED™ Project Checklist as provided on the GBCI website, supporting substantiation for each point for which credit is sought, and completed letter templates to be signed by the University and others. The LEED™ Project Checklist shall be updated and submitted at the end of each Design Phase (Schematic, Design Development, Construction Document, as applicable). The completed applicable checklist, letter templates and required documentation shall be submitted for review in tabbed binder form at the end of the Construction Documents Phase.
  - .5 For Projects Containing Laboratories: Comply with all prerequisites of the Labs21 program sponsored by the U.S. Environmental Protection Agency and the U.S. Department of Energy. Laboratory projects shall furnish cost information and strategies to meet or exceed performance thresholds for as many Labs21 Environmental Performance Criteria as feasible, as determined by the University's Designated Administrator.

#### 1.14 MEETINGS

1.14.1 Design Professional shall participate in regular meetings at the Facility through each phase of the Project for the purpose of explaining the Project design, reviewing the Project progress, discussing University policy and legal requirements.

### ARTICLE 2 - BASIC SERVICES - SCHEMATIC DESIGN PHASE

#### 2.1 GENERAL

2.1.1 Not Used.

2.1.2 Design Professional shall provide a written preliminary evaluation of the Project Program and the Construction Budget requirements each in terms of the other.

2.1.3 After consultation with University's Designated Administrator, Design Professional shall conduct a Schematic Design kick-off workshop to discuss the requirements and goals described in the Project Program.

2.1.4 Shortly after the Schematic Design kick-off workshop, conduct an Integrated Design workshop addressing the Project Program and the following requirements with all of Design Professional's Consultants, a representative of Savings-by-Design Program, as applicable, and University to:

- .1 Review the findings of the site analysis, program analysis and preliminary engineering analysis.
- .2 Discuss challenges and opportunities inherent in the Project.
- .3 Review design priorities.
- .4 Review the Project for alignment with Green Building design requirements (refer to Article 1.13 herein).

2.1.5 Early in the Schematic Design phase, develop and present to University three alternative site and building designs that meet the program needs. Provide graphics or physical study models as appropriate to fully describe the designs. These materials shall be delivered to University for review and shall include digital files of graphic presentation materials.

2.1.6 For each of the three alternative designs, update the Detailed Project Program cost model by changing, adding and/or deleting cost items, adjusting control quantities, and submitting these updates with the designs.

2.1.7 Not Used.

2.1.8 Design Professional shall prepare Schematic Design studies consistent with and incorporating the Project Program requirements, including site plans (when applicable), floor plans, elevations, sections, and other drawings, sketches, or graphic materials needed to describe the Project in three dimensions. Schematic studies shall be consistent with the construction budget and Project Schedule and shall be revised until approved by University as acceptable.

## 2.2 CODE ANALYSIS

2.2.1 Design Professional shall prepare and submit to University an outline of applicable provisions of building codes which apply to this Project. The outline shall include a written report and diagrammatic drawings which delineate the design criteria (e.g., exit paths, travel distances, required exits, rated walls, rated corridors, building occupancy, construction type, and fire zones). This graphic documentation of the design criteria shall be updated with each subsequent submittal.

## 2.3 ESTIMATED PROJECT CONSTRUCTION COST

2.3.1 Design Professional shall update the Project Program Cost Model by changing, adding and/or deleting cost items and adjusting control quantities.

2.3.2 Design Professional shall submit an Estimated Project Construction Cost based on the documents submitted in this phase using an estimate format approved by University's Designated Administrator. Design Professional shall compare the estimate with the Construction Budget and bring any unusual cost items to the attention of University's Designated Administrator.

## 2.4 AREA TABULATION

2.4.1 Design Professional shall develop a space-by-space comparison of the Schematic Design documents' assignable square feet (ASF) with the Project program's ASF. Design Professional shall provide overall gross square feet (OGSF) and, for projects exceeding \$5 million, shall provide a tabulation of rentable square footage (RSF) according to specifications of the Building Owners and Managers Association. These tabulations shall be made by floor and program component, and shall include totals for the building or renovated area as a whole. Design Professional shall calculate the efficiency ratios (ASF/GSF), and shall refer to the Format for Listing Rooms and Spaces in the Exhibits for the required format.

## 2.5 DESIGN INTENT NARRATIVE

2.5.1 Design Professional shall provide a narrative description of the Project's site, architectural design, and building organizational concept. Design Professional shall set forth the design concepts and important features of the Project, including the LEED™ Project Checklist referenced in Article 1.13 above. A preliminary building energy model identifying the estimated scale of the various load components and identifying potential energy and resource conservation options considering life cycle costs shall be provided.

2.5.2 Not Used.

2.5.3 Design Professional shall describe the type of construction, including the wall, ceiling, roofing, and waterproofing systems; exterior and interior finishes; and doors, windows, and casework systems. The finishes shall be identified at a gross level, indicating the type and quality level. Fire safety items, including all related mechanical and electrical devices, shall be described as required by the State Fire Marshal for the intended occupancy of the building.

2.5.4 Design Professional shall submit documentation supporting the design criteria for the structural (including structural loading), HVAC, plumbing, electrical, lighting and communication systems; and other specialized building systems.

2.5.5 Design Professional shall describe the recommended structural system and the basis for recommending this system over others. Included shall be strategies for dealing with special conditions, subsurface conditions, and substructure.

2.5.6 Design Professional shall provide the basis of design and an analysis of the principles of operation of the HVAC, plumbing and electrical systems and their controls. Included shall be the schematic diagrams and written material thoroughly describing the proposed systems and equipment.

2.5.7 Design Professional shall describe the mechanical (plumbing and HVAC systems) conceptually including controls, ducts, filtration, and piping. A written analysis of the calculated loads of proposed new HVAC systems and plumbing systems, the design demands of the Project, and the capacity of the existing systems, if any, shall be provided. Design Professional shall identify the capacity of existing systems if any, based on an examination of the Facility's Record Drawings, an inspection of the existing system, and test reports.

2.5.8 Design Professional shall describe special systems including special laboratory control systems, energy management systems, fume hood and other special exhaust systems, and similar items.

2.5.9 Design Professional shall describe the proposed new electrical systems for the power, lighting, communication, fire alarm, and security systems. Indicated in sufficient detail shall be the proposed power system voltages including the main points of connection to existing systems, electrical service voltage, and number of feeders. Items to be served by emergency power shall be listed and Design Professional shall describe design considerations for special areas.

2.5.10 All of the above descriptions shall include applicable code references where not covered by the code outline.

## 2.6 MATERIAL BOARD

2.6.1 Design Professional shall provide a display board with mounted samples of the actual exterior materials proposed. The board shall be 20"H x 30"W and weigh no more than 30 pounds. The material samples shall be removable from the board without disassembling the board. The area of each sample shall roughly correspond to the proportion of that material to the other materials in the proposed building.

## 2.7 CIVIL DRAWINGS

2.7.1 Site Demolition Plan shall show existing structures and utilities to be removed by Contractor or by others.

2.7.2 Grading Plan shall show existing and proposed contours at one foot intervals.

2.7.3 Utility Plan shall show:

- .1 All existing utilities and underground structures within the Project site based on both the information provided by University and on Design Professional's field investigation.
- .2 Off-site utilities in the vicinity required for this Project, and all points of connection.
- .3 Proposed points of connection to the existing Facility utility systems including the proposed method of service and routing for electrical power, chilled water, steam, domestic water, fire water, utility water, sanitary sewer, storm drain, natural gas, telephone, and fire alarm systems. Exterior pad-mounted transformers and site distribution shall be included.

## 2.8 LANDSCAPE DRAWINGS

2.8.1 Landscape Design Plan shall show conceptual hardscape and planting.

## 2.9 ARCHITECTURAL DRAWINGS

2.9.1 Site Plan shall include:

- .1 Overall dimensions of the proposed new building(s), wings, etc.
- .2 Existing structures and streets (with names) within a radius of 300 feet of the Project site perimeter with the distances from each proposed new building exterior walls to existing buildings, property lines (setbacks), and roadways.
- .3 Major new exterior elements and, for alterations and additions, all existing exterior elements that will remain in place. These elements shall include, but are not limited to streets, service drives, easements, loading docks, parking areas (cars and bicycle), paved areas, walks, stairs, ramps, pools, retaining walls, fences, fire hydrants, recycling, and trash container locations and equipment.
- .4 Elevations of building entrances and the placement of ramps and other provisions for disabled access to the site and building. Also depicted shall be the parking area and drop-off location nearest the building, and the routes and travel distances to all building entrances.

2.9.2 Site Sections shall be included as needed to explain changes in levels within the proposed building as related to the site.

2.9.3 Floor Plans shall include:

- .1 Locations, room names, sizes (in assignable square feet), and space numbers for all programmed spaces and required gross area spaces including entrances, lobbies, corridors, stairs, elevators, toilet rooms, janitors' closets, storage and mechanical/electrical equipment rooms.
- .2 Overall dimensions of major elements of the building(s).
- .3 Building elements such as walls, columns, doors, windows, openings, and major built-in equipment.
- .4 Means for complying with applicable disabled access codes.
- .5 Floor plans for additions or alterations to existing buildings shall show the existing floor plan and indicate the existing space usages and any proposed changes.

2.9.4 Demolition Plan (whenever a Project requires the demolition of a building or portions thereof). Design Professional shall differentiate between new work (walls, doors, finishes, and so on), existing work to be removed, and existing work to remain in place.

2.9.5 Sections shall be provided as needed to explain structure and unusual design features, and shall show existing and proposed grades.

2.9.6 Elevations shall include all elevations of the building, floor-to-floor dimensions, the overall building height, and elevations of existing neighboring buildings.

2.9.7 Presentation Materials as required for presentation to the Regents (or the Regents Delegated Authority). Design Professional shall verify all requirements for presentation materials with University's Representative. These may include:

- .1 Colored presentation-quality drawings of all floor plans, elevations (all sides), sections, site plan, and other drawings, as appropriate.
- .2 When requested and using digital reproduction, photograph the presentation drawings and samples for those projects requiring design review meetings and Regents (or Regents' Delegated Authority) presentations. Return the presentation drawings to University after the slides are prepared.
- .3 Two rendered perspective drawings, in color and large enough to convey the overall design. A normal, "eye-level" view of the Project is preferred. In some instances, a "birds-eye" view will be needed to convey the full scope of the



Project. The landscape features of the site development shall be shown in a realistic manner, but shall not obscure the structure.

## **2.10 STRUCTURAL DRAWINGS**

**2.10.1** Design Professional shall provide a detailed written description of the recommended structural system and the basis for recommending this system over other approaches. Design Professional shall provide a conceptual structural framing plan of a typical floor that indicates the grid system (dimensioned), columns, shear walls, and related items.

## **2.11 PLUMBING DRAWINGS**

**2.11.1** Design Professional shall provide a written analysis of the calculated load demands of proposed new plumbing systems, the design demands of the Project, and the capacity of the existing plumbing systems, if any. Indicate the proposed points of connection to the existing Facility utility systems. Refer to the site plan requirements outlined in subparagraph 2.9.1 herein.

## **2.12 HVAC DRAWINGS**

**2.12.1** Design Professional shall:

- .1 Evaluate a minimum of two alternative air systems that are in compliance with energy requirements in the California Code of Regulations, Title 24, Part 6, California Energy Code and Part 4, California Mechanical Code.
- .2 Provide a written analysis of the calculated loads of proposed new HVAC systems.
- .3 Provide a conceptual single-line mechanical diagram showing major ducts and equipment. The sizes and locations of major equipment items including cooling towers, chillers, pumps, fans, air-handling units, compressors, and related items, shall be identified.
- .4 Provide a life-cycle cost analysis for each HVAC system. This analysis shall include capital cost, operating costs, maintenance costs, and anticipated level of performance, with comparisons made between the proposed system and alternative systems. Design Professional shall provide a simple payback schedule.
- .5 Provide a description of the proposed fume hood ducting and exhaust system.

## **2.13 ELECTRICAL DRAWINGS**

**2.13.1** Design Professional shall provide a conceptual single-line diagram showing permanent as well as temporary points of connection to high-voltage, telephone, and signal systems. Included shall be the:

- .1 Method of service (Facility or local utility) showing primary service to loop switch.
- .2 Major transformers and transformer substations.
- .3 Secondary service to switchboards, motor control centers, distribution boards and panel boards for power and lighting.
- .4 Major components of the emergency power system.

## **2.14 GREEN BUILDING DESIGN**

**2.14.1** Refer to paragraph 1.13 herein.

## **ARTICLE 3 - BASIC SERVICES - DESIGN DEVELOPMENT PHASE**

### **3.1 GENERAL**

**3.1.1** Upon 100% completion of Design Development documents, Design Professional shall submit updated versions of all Schematic Design phase submittal items as well as the additional items described below. The Design Development documents shall be consistent with the Project Program (including the gross and assignable floor areas), the Construction Budget and the Project Schedule.

### **3.2 CODE ANALYSIS**

**3.2.1** Design Professional shall update the code outline.

### **3.3 ESTIMATED PROJECT CONSTRUCTION COST**

**3.3.1** Design Professional shall provide an updated estimate as part of the Design Development documents submittal. Design Professional shall use the same estimation method and building component format as used for Schematic Design Phase estimate. The estimate shall be sufficiently detailed so that all construction components are considered, and quantities of materials and unit costs are provided. In addition, the estimate shall include unit costs per gross square foot for all major items of the Work, broken down by building component. Design Professional shall provide a subtotal for each component and compare this estimate with the approved Construction Budget. Bring all unusual cost items to the attention of University's Designated Administrator.

### **3.4 AREA TABULATION**

**3.4.1** Design Professional shall update the area tabulation.

### 3.5 DESIGN INTENT NARRATIVE

3.5.1 Design Professional shall update the Design Intent Narrative. All fire safety items including the flame spread rating of all applicable material and finishes shall be identified.

### 3.6 MATERIAL BOARD

3.6.1 Design Professional shall update the Material Board(s) to include samples of all finish materials listed in the materials/color schedule.

### 3.7 CIVIL DRAWINGS

3.7.1 Grading Plan - Design Professional shall update the plan to show the general method of site drainage as affected by each proposed building. Added shall be baseline and benchmark references and elevations of major exterior elements including those for stairways, walls, and terraces.

3.7.2 Utility Plan - Design Professional shall update the plan to indicate all utility lines, duct banks, tanks and equipment that are to be abandoned, removed, or rerouted.

3.7.3 Conceptual Staging and Bicycle Routing Plan - Design Professional shall prepare plans to indicate Contractor staging and parking areas. Impacted bicycle and pedestrian pathways and proposed rerouting shall be identified.

### 3.8 LANDSCAPE DRAWINGS

3.8.1 Landscape Plans shall show hardscape, planting and other improvements.

### 3.9 ARCHITECTURAL DRAWINGS

3.9.1 Floor Plans (with a scale of not less than 1/8-inch = 1-foot 0-inches) shall include:

- .1 Corridors (with widths)
- .2 Door swings
- .3 Locations and fire ratings of all fire separations, exit enclosures, fire doors, and similar elements, as required by applicable codes.
- .4 Accessible toilets and drinking fountains.
- .5 Plumbing fixtures such as lavatories, floor drains, water closets, urinals, service sinks, drinking fountains, eyewash fountains, deluge showers, and fire-hose cabinets.
- .6 Built-in features such as fixed auditorium seats, kitchen equipment, display cases, counters, shelves, lockers, laboratory benches, casework, glass washers, sterilizers, fume hoods, and similar items.
- .7 Movable furniture, which in most cases is "not in contract" (NIC), including "interior landscape" partitions and equipment. Differentiate between movable furniture and equipment and built-in furniture and equipment (built-in items are usually included in the construction contract).
- .8 Reference all sections and elevations.

3.9.2 Roof plan shall show associated equipment, slopes, ridges, drains, and other items.

3.9.3 Elevations shall include:

- .1 Building elements including penthouses, entrances, windows, doors, stairs, platforms, louvers, vents, exhaust stacks, retaining walls, and similar items. Indicate proposed finished grades.
- .2 Windowsill and head heights.

3.9.4 Sections shall include:

- .1 Longitudinal and transverse sections for each major area, indicating floor elevations, existing and proposed exterior grades, ceiling heights, pipe tunnels, unexcavated areas, basement areas, rooflines, and parapets. Show cuts for connections to adjoining buildings where appropriate.
- .2 Include a small-scale plan or diagram (if necessary) to indicate section lines for each elevation and section.
- .3 Provisions for HVAC distribution and hood venting.

3.9.5 Large Scale Drawings - Provide detail plans, sections, and elevations for the following types of space:

- .1 Classrooms and lecture halls.
- .2 Kitchens and related service areas.
- .3 Laboratories and laboratory support areas.
- .4 Toilet and locker rooms.
- .5 Other areas of special design with notes related to materials and design.

3.9.6 Schedules shall include:

- .1 Door schedule indicating each door type, size, material, hardware group and pertinent comments.

- .2 Window schedule indicating each window type, size, material, and pertinent comments.
- .3 Preliminary interior finish schedule indicating the material, texture, and color of each finish material proposed for use in the Project.

### 3.10 STRUCTURAL DRAWINGS

**3.10.1** Design Professional shall provide structural plans for each level of the structure (including each foundation and roof level) at the same scale as that used for the architectural plans. Design Professional shall indicate the grid system (dimensioned), columns, load-bearing walls, shear walls, footings, and related items.

### 3.11 PLUMBING DRAWINGS

**3.11.1** Floor Plans shall show:

- .1 Plumbing fixtures and any equipment requiring plumbing service (including pumps, tanks, generators, pressure-reducing valves, etc.) showing their locations and required piping connections.
- .2 Main waste lines and stacks and vents as well as all service mains, including those for water, air, gas, and vacuum.
- .3 Plumbing chases in multi-storied buildings.
- .4 Fire water mains, standpipes and hose racks.

### 3.12 HVAC DRAWINGS

**3.12.1** Floor Plans shall show:

- .1 Mechanical equipment including air handling units, chillers, cooling towers, pumps, converters, expansion tanks, boilers, fans, fan coil units, heat exchangers, fume hoods and other equipment.
- .2 Mains for each duct system.
- .3 Typical supply and return air zones for each type of occupancy (offices, laboratories, computer rooms, conference rooms, and special application rooms.) A typical air zone shall include the terminal unit with all applicable branch ducts and air outlets and inlets.
- .4 Typical exhaust air duct for each type of application (hoods, toilet rooms, janitors' closets, transformers, mechanical/electrical equipment rooms, and other rooms as required for a satisfactory indoor environment.) A typical duct shall include an air inlet and a source destination for exhaust air.

**3.12.2** Large-Scale Drawings of Equipment Rooms shall show layout of all equipment rooms to ensure that the proposed equipment will fit in the allotted space.

### 3.13 ELECTRICAL DRAWINGS AND CATALOG CUTS

**3.13.1** Single line diagrams shall be updated to include each load center unit substation, telephone equipment rooms, and closets.

**3.13.2** Floor Plans shall show layouts for power, signal, and communications on one set of drawings, and the lighting layouts shall be shown on a different set of drawings. Included shall be lighting fixtures in typical offices, laboratories, corridors, examination rooms, and similar spaces. A schedule shall be used to show detail.

**3.13.3** Catalog cuts shall be provided for all proposed lighting fixtures.

**3.13.4** Large-Scale Drawings shall include a layout of all equipment rooms to ensure that the proposed equipment will fit in the allotted space.

### 3.14 OUTLINE SPECIFICATIONS

**3.14.1** Prior to beginning production of the specifications, Design Professional shall schedule a meeting with University's Designated Administrator and the Contract Administration staff to discuss specifications guidelines. At this meeting, University will provide guidelines for preparing specifications. Attendees at this meeting shall include Design Professional and its consultants including specifications writers.

**3.14.2** Outline specifications with a detailed description of all building components and systems shall include:

- .1 An index showing all divisions and sections intended to be used. The format shall be that recommended by the Construction Specifications Institute (CSI), narrow scope type.
- .2 All technical sections in outline specification format.
- .3 A general description of the construction, including the structural system; wall, ceiling, roofing, and waterproofing systems; exterior and interior finishes; and doors, windows, and case work. These descriptions shall include applicable code references.
- .4 Descriptions of the plumbing and HVAC systems including controls, ducts, filtration, and piping. These descriptions shall include applicable code references.
- .5 A general description of electrical services including the voltage and the number of feeders. The specifications shall provide a specific description of items to be served by emergency power and shall describe design considerations for special areas. This description shall include applicable code references.

- .6 A description of fire safety items including all mechanical and electrical devices required by the State Fire Marshal for the intended occupancy of the building.
- .7 A description of special systems including laboratory control systems, energy management systems, special exhaust systems, and similar items.

### **3.15 ENERGY ANALYSIS**

**3.15.1** Design Professional shall submit a complete performance-approach computer simulation demonstrating Title 24 energy compliance for University review and certification. Process loads shall be clearly identified and evaluated as allowed by California Code of Regulations Title 24, Part 6. For non-acute care facilities only, the simulation shall demonstrate compliance with University's requirement to outperform Title 24 energy efficiency requirements by the amount specified in paragraph 1.13 herein. Design Professional shall correct all non-complying aspects of the design, including the energy compliance approach.

### **3.16 SOLE SOURCE LISTING**

**3.16.1** Design Professional shall submit a list of each item of equipment and/or each system to be designated as sole source by the notation in the documents, "or equal (no known equal)". This list shall include the following information:

- .1 Description of each item of equipment and/or each system;
- .2 Estimated cost of each item of equipment and/or each system; and
- .3 Justification as to why each item of equipment and/or each system needs to be from a sole source. Include brief performance specifications detailing those features which, because they are unique or state-of-the-art, or the preclude use of an alternative product.

### **3.17 EMS/HVAC AUTOMATIC TEMPERATURE CONTROLS**

**3.17.1** If applicable to the scope of this Project, Design Professional shall specify automatic Energy Management System (EMS)/HVAC controls systems that communicate with and are interoperable with the campus system. University's Designated Administrator will arrange an initial meeting at the end of the Design Development phase to discuss the integration and specification of the EMS/HVAC Control System. Design Professional shall thereafter incorporate these requirements into Project design and Construction Documents.

### **3.18 GREEN BUILDING DESIGN**

**3.18.1** Refer to paragraph 1.13 herein.

## **ARTICLE 4 - BASIC SERVICES - CONSTRUCTION DOCUMENTS PHASE**

### **4.1 GENERAL**

**4.1.1** Upon 50%, 100% and backcheck to 100% completion of Construction Documents, Design Professional shall submit updated versions of all of the required items for the Design Development phase submittal as well as the additional items described below. The Construction Documents shall be consistent with the Project Program (including the gross and assignable floor areas), the Construction Budget and the Project Schedule.

**4.1.2** Prior to the 100% Construction Documents phase submittal, Design Professional and its consultants shall review University's Bidding Documents for Project requirements and recommend any changes needed to make them applicable to the Project. Design Professional shall include, with the 100% Construction Document phase submittal, a single marked-up set of University's Standard Specifications, Division 1, General Requirements, showing the recommended changes, if any.

**4.1.3** The Drawings and Specifications shall be consistent with University's General Conditions and the Division 1 tailored for the Project, as required by subparagraph 4.1.2 herein.

### **4.2 CODE ANALYSIS**

**4.2.1** Design Professional shall update the code outline.

### **4.3 ESTIMATED PROJECT CONSTRUCTION COST**

**4.3.1** Design Professional shall update the estimate at each submittal, and shall bring any unusual cost item to the attention of University's Designated Administrator. The 100% Construction Documents estimate shall be updated by Design Professional to incorporate any additional backcheck requirements incorporated after the 100% submittal.

### **4.4 AREA TABULATION**

**4.4.1** Design Professional shall update the area tabulation.

### **4.5 DESIGN INTENT NARRATIVE**

**4.5.1** Design Professional shall update the Design Intent Narrative.

#### 4.6 MATERIAL BOARD

4.6.1 Design Professional shall update the Material Board(s).

#### 4.7 50% COMPLETE CONSTRUCTION DOCUMENTS

4.7.1 Cover Sheet and Regulatory Compliance Drawings shall include:

- .1 Title sheet with index, general notes, legends, and a small-scale Facility/Project location map.
- .2 Code Compliance Calculations and Diagrams.

4.7.2 Civil Drawings shall include:

- .1 Existing civil survey.
- .2 Site demolition plan.
- .3 Site utilities plan:
  - a. Coordinate size and location for all stub outs for connection by Architectural, Mechanical, Plumbing, Electrical, etc. Indicate continuation sheet number.
  - b. Indicate identification number as provided by University on all new manholes, valve boxes, cleanouts, lift stations, etc.
  - c. Completely design steam and condensate lines, steam vaults, expansion legs, anchors and guides.
  - d. Show locations, sizes, and elevations of the site sewer, street water main, and water service into the building.
- .4 Site plan.
- .5 Rough grading plan. Show drainage structures.
- .6 Site profile sections.
- .7 Details.

4.7.3 Landscape Drawings shall include:

- .1 Finished grading plan.
- .2 Hardscape (paving) plan.
- .3 Irrigation plan.
- .4 Planting plan.
- .5 Hardscape details (walls, walks, planters, etc.).
- .6 Irrigation details.
- .7 Planting details.
- .8 Other details as appropriate.

4.7.4 Architectural Drawings shall include:

- .1 Reflected ceiling plans showing all penetrations.
- .2 Details.

4.7.5 Structural Drawings shall include:

- .1 Plans that indicate the location, type of member, size, and material of each structural element (including existing elements on renovation projects) for foundations, floors, roofs, and any intermediate levels. List assumed safe bearing pressures on soils and ultimate strengths of concrete.
- .2 Schedules (beam, column and slab).
- .3 Details of all connections, assemblies, expansion joints, and similar items.
- .4 Details of the structural framing systems required to support nonstructural elements and fixed equipment.

4.7.6 Plumbing Drawings:

- .1 Floor Plans shall show:
  - a. Locations, sizes, and elevations of the building sewer, drains, waste, and waste vent stacks with connections to drains, fixtures, and equipment.
  - b. Locations and sizes of hot, cold, and circulation water mains, branches, and risers from the service entrance and tanks.
  - c. Fire-extinguishing equipment such as sprinklers and wet/dry standpipes.
  - d. Locations and sizes of natural gas, vacuum, and medical gas systems.
- .2 Riser diagrams for each system shall show all plumbing stacks with vents, water risers, and fixture connections for multi-story buildings; materials, gauges, and sizes for all elements.
- .3 Sections shall show structural, HVAC, and piping systems through congested areas.

4.7.7 HVAC Drawings shall include:

- .1 Mechanical floor plans showing the complete HVAC systems including the following items:
  - a. Heating and steam mains, including branches, with pipe sizes.

- b. Air-conditioning systems including refrigerators, water and refrigerant piping, and duct work.
- c. Exhaust and supply ventilating systems showing duct sizes for steam or water connections and piping.
- d. Air and piping systems, including all branches, on each floor plan.
- .2 Detailed floor plans and sections clearly indicating the work required for all mechanical equipment rooms.
- .3 Air balance schedule indicating the CFM (cubic feet per minute) of outside air, supply air, return air, and exhaust air for each air system.
- .4 Elevations of built-up fan units to ensure required airflows and access to the component parts of the units
- .5 Flow diagram for each of the following types of water systems: Chilled water, Condenser water, Hot water and others as needed to clearly define the scope of work.
- .6 Riser diagram for each type of system (air, chilled water, heating hot water, and specialty systems).
- .7 Mounting details.
- .8 Sequence of operations diagram.

**4.7.8** Electrical Drawings shall include:

- .1 Electrical service entrance and its service switches, the service feeds to the public service feeders, and the characteristics of the light and power currents.
- .2 Transformers and their connections, whether in the building or on the Project site.
- .3 Main switchboard, power panels, light panels, and associated equipment.
- .4 Feeder and conduit sizes.
- .5 Light fixtures, receptacles, switches, and power outlets.
- .6 Telephone outlets, conduits, terminal cabinets, and backboards.
- .7 Complete fire alarm system including its connection to the Facility's system.
- .8 Emergency electrical power system including generator transfer switches, fuel tanks, and all auxiliaries.
- .9 Other systems as required.
- .10 Mounting details.

**4.7.9** Specifications:

- .1 Update the Specification Index.
- .2 Submit, at minimum, any six completed architectural sections from Divisions 2 through 13, one completed mechanical section from Divisions 21 through 23, and one completed electrical section from Division 26. If Division 14 is used, include one completed Section.
- .3 Update the remaining outline specifications in Divisions 2 through 48.
- .4 University will prepare its Bidding Documents including Specifications, Division 1.

**4.8 ENERGY ANALYSIS**

**4.8.1** Update the Title 24 energy compliance computer simulation specified in paragraph 3.15 herein, including requirement to achieve the energy efficiency specified in paragraph 1.13 herein. Submit California Energy Commission forms certifying that the design complies with the code and the UC Policy on Sustainable Practices. University, acting as the enforcement agency, is required to independently check the designs and certify that they are in compliance with the code. Any non-complying aspect of the design, as determined by University's Designated Administrator, shall be corrected by Design Professional before the design can be certified by University.

**4.9 STRUCTURAL, MECHANICAL, AND ELECTRICAL CALCULATIONS**

**4.9.1** Design Professional shall clearly list all design criteria, assumptions, and references used. Calculations shall be arranged in a clear manner and shall include schematic diagrams and spreadsheets where necessary together with information sufficient to show compliance with all applicable codes and design standards. Calculations shall be checked and stamped by an engineer registered in the applicable discipline. Submitted calculations shall include, but not be limited to:

- .1 Structural Calculations:
  - a. Preface with a statement outlining the basis for the structural design and indicating the manner in which the proposed building will resist vertical loads and horizontal forces.
  - b. Structural diagrams shall be accompanied by computations, stress diagrams and other pertinent data and shall be complete to the extent that calculations for individual structural members can be readily interpreted.
  - c. List assumed safe bearing pressures on soils and ultimate strengths of concrete.
  - d. Where unusual conditions occur, submit additional data as is pertinent.
- .2 Mechanical Calculations:
  - a. Heating and cooling load calculations.
  - b. Psychometric charts and air conditions.
  - c. Fan and coil sizing calculations and selection data.
  - d. Sizing calculations and selection data for chillers, boilers, cooling towers, heat exchangers, packaged air conditioners, etc.
  - e. Ductwork and pipe sizing calculations. (Include flows per room or coil, sizing method used and pressure drops).
  - f. Domestic/industrial hot water sizing calculations, including pump sizing.
  - g. Structural and seismic calculations for equipment supports (may be submitted with structural calculations).

- .3 Electrical Calculations:
  - a. Summary of electrical loads used in calculating transformer size.
  - b. Fault interruption calculations.
  - c. Point-by-point lighting analysis for all interior rooms and exterior areas showing light level contours graphically.
  - d. Structural and seismic calculations for equipment supports (may be submitted with structural calculations).
- .4 Plumbing, Communications, and other specialized building system calculations.

#### **4.10 UTILITY SHUT DOWN PLAN**

**4.10.1** Design Professional shall provide a detailed Utility Shut Down Plan that identifies all utilities affected, how the utility is to be isolated, maximum allowable duration of interruption (if applicable) and the affected facilities for all major shut downs. Design Professional shall specify by-pass or temporary service if required to minimize disruption to University.

#### **4.11 SOLE SOURCE LIST**

**4.11.1** Design Professional shall update the sole source list.

#### **4.12 NOT USED.**

#### **4.13 100% COMPLETE CONSTRUCTION DOCUMENTS**

**4.13.1** Design Professional shall update the documents required for the 50% Construction Document submittal and provide additional drawings, details and specifications in sufficient detail as to be deemed 100% complete and buildable. Prior to submitting the 100% Construction Documents, Design Professional and its consultants shall have thoroughly checked, coordinated, and revised all documents to bring them to 100% completed level:

- .1 Architectural Drawings: Detail the anchorage of all fixed equipment.
- .2 Mechanical Drawings: A sufficient level of detail shall be provided to illustrate connections, routings, and other items in complex areas.
- .3 Electrical Drawings: A sufficient level of detail shall be provided to illustrate connections, routings, and other items in complex areas. All wiring shall be final-sized. Provide a schedule of feeder breakers or switches, locations of all circuits, details for other systems as required.
- .4 Soils and Materials Testing Recommendations: Design Professional shall provide written recommendations for construction phase testing and special inspections such as soils and materials testing, welding inspections, and dewatering requirements.
- .5 Contract Documents: University will prepare Bidding Documents including Specifications Division 1. University will provide the Cover Page, Table of Contents, Advertisement for Bids, Project Directory, Instructions to Bidders, Supplementary Instructions to Bidders, Information Available to Bidders, Bid Form, Location Map(s), Geotechnical Engineering Report, Prevailing Wage Determinations, Qualifications Questionnaire, Bonds, Agreement, General Conditions, Supplemental Conditions, Equal Opportunity Documentation, Exhibits and Specifications, Division 1, General Requirements. Design Professional shall provide or assist with the following documents:
  - a. Certification Page (prepared by University, signed and stamped by Design Professional)
  - b. Project Description (furnished by Design Professional, prepared by University)
  - c. Index to the Specifications (furnished by Design Professional, prepared by University)
  - d. Specifications, Divisions 2 through 48
  - e. List of Drawings (with dates furnished by Design Professional, prepared by University).

#### **4.14 LETTER OF ASSURANCE**

**4.14.1** Upon completing the 100% Construction Documents, Design Professional shall submit to University a Letter of Assurance attesting that the documents are complete and ready to bid.

#### **4.15 LIST OF ROOMS AND SPACES**

**4.15.1** Design Professional shall provide a complete listing of all rooms and spaces, as required in Format for Listing Rooms and Spaces in the Exhibits.

#### **4.16 BUY CLEAN CALIFORNIA**

**4.16.1** If the Construction Budget is estimated to be in excess of \$1,000,000, the Project will be subject to the University's policy on the Buy Clean California Act (California Public Contract Code Sections 3500, et seq.). Upon submittal of the 100% Construction Documents, Design Professional shall also submit a complete list of all "eligible materials" as defined by law that will require the submittal of an Environmental Product Declaration (EPD) listed by individual specification sections

#### **4.17 100% BACKCHECK CONSTRUCTION DOCUMENTS**

**4.17.1** The 100% Backcheck submittal shall either incorporate all changes and corrections required by University and review agencies as a result of their review of the 100% Construction Documents, or be accompanied by a written statement as to why such

changes were not incorporated. University may reject Design Professional's explanation and require Design Professional to make the changes or corrections to the Construction Documents as previously requested by University.

**4.17.2** Unless directed otherwise in writing by University, the Construction Document phase shall not be considered complete until all required agency and University approvals have been received by Design Professional. When all University and review agency required changes or corrections have been incorporated by Design Professional, the Construction Documents will be deemed to be final and ready for bid

**4.17.3** Final Construction Drawings and the Certification page of the specifications submitted to University for bidding purposes shall be signed and stamped by Design Professional or the appropriate Design Professional's consultant.

## **ARTICLE 5 - BASIC SERVICES - BIDDING PHASE**

### **5.1 GENERAL**

**5.1.1** If prequalification of construction contractors is required by University, Design Professional shall review and comment on the prequalification criteria prepared by University.

**5.1.2** Design Professional's Project Architect or Engineer shall assist University in the review and evaluation of bids if requested by University.

### **5.2 UNIVERSITY ADMINISTRATION**

**5.2.1** University will administer and coordinate the following:

- .1 Reproduction of all documents, including addenda.
- .2 Completing and placing the Advertisement for Bids.
- .3 Scheduling and coordination of pre-bid conference and site visits.
- .4 Receipt of questions from bidders and distribution of questions to Design Professional.
- .5 Receipt of addenda documents from Design Professional.
- .6 Issuance of addenda.
- .7 Receipt of Bids.
- .8 Rejection of Bids.
- .9 Bidder Protests.
- .10 Contract Award and Execution.

### **5.3 PRE-BID CONFERENCE AND SITE VISIT**

**5.3.1** University's Representative will conduct pre-bid conferences and pre-bid site visits with potential bidders to help identify questions that bidders may raise during the Bidding phase. Questions from prospective Bidders shall be collected by University's Representative during these conferences and site visits. No questions shall be answered at these events which require interpretation, clarification or modifications of the Contract Documents.

### **5.4 BIDDERS' INQUIRIES**

**5.4.1** During the Bidding phase, University's Representative (or designee) will receive all requests for interpretation, clarification and modification from Bidders, and log in the date, time, and caller's name and question. University's Representative will forward this information to Design Professional. Design Professional shall submit all responses to said items to University's Representative only. Design Professional and its consultants shall not issue any verbal or written statements regarding the Bidding Documents.

**5.4.2** University's Representative sets the deadline for receiving all requests for clarification or interpretation of the Bidding Documents. Questions received after the deadline may be answered at the discretion of University's Representative.

### **5.5 ADDENDA**

**5.5.1** Interpretation, clarification, and modification of the Contract Documents shall be issued only in the form of an Addendum to the Contract Documents. Design Professional shall furnish the information required to University for issuance of Addenda.

**5.5.2** Design Professional is responsible for receiving, reviewing, approving, coordinating, and incorporating addenda items received from its consultant(s) into a single addendum document prior to submitting this document to University. Addenda shall be submitted to University in the same format as the Construction Documents except as follows:

- .1 In the Specifications, all additions shall be shown in bold underline or bold italics and all deletions shown in strikethrough.
- .2 In the Drawings, all changes shall be "clouded."

**5.5.3** Design Professional shall provide to University at the end of the Bidding phase the following documents with changes identified as follows. In the Specifications all additions shall be shown in bold underline or bold italics and all deletions shown in strikethrough. In the Drawings, changes shall be "clouded."



- .1 One complete set in hard copy format of Construction Drawings and Specifications that fully integrate all addenda items.
- .2 One complete set on CD-ROM of Construction Drawings and Specifications that fully integrate all addenda items.

## **5.6 SUBMITTAL LIST**

**5.6.1** Design Professional shall submit, prior to the bid date, a complete list of all submittals required by the Contract Documents listed by individual specification sections.

## **5.7 PRE-AWARD CONFERENCE**

**5.7.1** Design Professional shall, if requested by University, participate in a pre-award meeting to include review of Contractor's submittals which are received with the signed Agreement of the Construction Contract.

## **ARTICLE 6 - BASIC SERVICES - CONSTRUCTION PHASE**

### **6.1 GENERAL**

**6.1.1** Design Professional's responsibilities shall include, but not be limited to, interpretation of the Contract Documents; periodic site observations; review of submittals; review of Environmental Product Declarations; preparation of documents for proposed changes; and general consultation to University on design matters. Design Professional shall be fully responsible for all matters related to Design Professional's design and all of Design Professional's recommendations to University which are carried out by University without substantive change. Design Professional's duties shall not include administration of communications with Contractor, chairing meetings with Contractor, monitoring the schedule; negotiation of price changes; and coordination of closeout. Design Professional shall cooperate with University's Representative in University's Representative's provision of contract administration services as those services are described in the Contract Documents.

**6.1.2** Except as otherwise provided in the Contract Documents or as directed by University, all written communications with Contractor shall be sent and received by University's Representative. Design Professional shall advise and consult with University's Representative and shall keep University's Representative informed of the observed progress of the Work. Design Professional shall render written or graphic interpretations and decisions that are consistent with the intent of, and reasonably inferable from, the Contract Documents; review and recommend any action to be taken regarding Contractor's required submittals; and evaluate, with University's Representative, the equivalence of proposed substitutions for materials, products, or services specified by brand or trade names in the Contract Documents and recommend either approval or rejection of substitutions as being equal in quality, utility, and appearance.

**6.1.3** Design Professional shall perform all Construction phase services in a timely manner, as required by this Agreement and the Contract Documents. Design Professional shall not delay its interpretations, decisions, reviews, or other functions pursuant to this Agreement so as to cause or contribute to a disruption of construction or a delay in completion of the Project.

**6.1.4** Design Professional shall, at no cost to University, satisfactorily correct any and all errors, omissions, deficiencies, or conflicts in the Construction Documents prepared by Design Professional or Design Professional's consultants promptly upon discovery or notice. The obligations of Design Professional to correct defective or nonconforming Work shall not in any way limit any other obligations of Design Professional.

### **6.2 CONTRACT DOCUMENTS COMPLIANCE**

**6.2.1** Design Professional shall make (1) periodic on-site observations of construction as it progresses except for periods of construction downtime as approved by University in writing, and upon completion of construction and (2) off-site observations of fabricated materials and equipment when such off-site checks are specified in the Contract Documents. Observations shall be conducted deliberately and thoroughly. The frequency, duration, and extent of such observations shall be appropriate to and for: the progress, character, and complexity of the Work; design issues or questions of concern to Design Professional, its consultants, University's Representative or as noted in any inspection reports furnished to Design Professional; the observed quality of Contractor's performance during previous visits; the review of construction of crucial components of the Work; and the observation of the performance of specified or University's Representative's directed tests significant to the acceptability of crucial components of the Work. Such observations shall also be performed when reasonably requested by University.

**6.2.2** Observations shall be for the purpose of ascertaining: the progress of the Work; that the character, scope, quality and detail of construction (including workmanship and materials) comply with the design expressed in the Contract Documents, University's Representative's directives, approved product data and samples and clarification drawings. Observations shall be separate from any inspections which may be provided by University. University's provision of inspection services, if any, shall not relieve Design Professional of its responsibilities under this Agreement.

For HCAI related projects, University's inspectors, if any, shall be satisfactory to Design Professional and shall act under the direction of Design Professional to the extent required by law.

**6.2.3** Design Professional shall have the authority to recommend rejection of Work that is defective or that does not conform to any of the following: the Contract Documents; Design Professional's directives; applicable code requirements; approved shop drawings, product data, and samples; or clarification drawings. Such rejection shall be transmitted to University's Representative in writing for communication to Contractor.

**6.2.4** Design Professional shall recommend special inspection or testing of the Work in accordance with the provisions of the Contract Documents if, in Design Professional's reasonable opinion, such inspection or testing is necessary or advisable for the implementation of the Contract Documents, regardless of the state of completion of the Work subject to such inspection or testing.

**6.2.5** Design Professional shall review inspection reports, laboratory reports, and test data to determine conformity of such data with: the design requirements expressed, implied, or depicted in the Contract Documents; approved Shop Drawings, Product Data, and Samples; and Clarification Drawings.

**6.2.6** Design Professional shall also recommend to University's Representative, in writing, about actions that need to be taken by University's Representative, as determined from Design Professional Project site visits, inspection reports, laboratory reports, and test data or from Contractor proposals, or other relevant documents.

### **6.3 INTERPRETATION OF THE CONTRACT DOCUMENTS**

**6.3.1** Design Professional shall be, in the first instance, the interpreter of the design requirements of the Contract Documents and the judge of the performance thereunder.

**6.3.2** Design Professional's decisions or interpretations regarding the Contract Documents, or disputes arising out of the Contract Documents shall be coordinated through and issued by University's Representative following University review, but shall be based upon Design Professional's independent judgment. Information regarding, or changes to, the Contract Documents shall be issued by University on University's forms (Letters of Instruction, Field Orders, and Change Orders).

### **6.4 CHANGES TO THE CONTRACT DOCUMENTS**

**6.4.1** Design Professional shall incorporate changes (issued as revision drawings with Field Orders, RFIs or Change Orders) into the Record Documents on a monthly basis during the Construction phase.

### **6.5 CONSTRUCTION MEETINGS**

**6.5.1** Not Used.

**6.5.2** Construction Meetings: Design Professional shall attend regular construction meetings at the project site scheduled to occur Weekly, plus special meetings as they are deemed necessary. Design Professional's consultants shall attend as necessary. If, through no fault of Design Professional, the total number of regular construction meetings attended exceeds 56 meetings, Design Professional shall be compensated for additional meetings in accordance with Agreement paragraph 5.2. Construction meeting notes will be prepared and distributed by University's Representative.

### **6.6 INSPECTION**

**6.6.1** Construction phase inspection, coordinated through University's Representative, will be provided and paid for by University. Design Professional shall provide technical direction to, and interpretation of, the Contract Documents for inspectors and advise these inspectors of decisions rendered.

**6.6.2** The inspectors, acting under the direction of University's Representative, will:

- .1 Be responsible for milestone inspections (spot checks) to assess compliance with the requirements of the Contract Documents.
- .2 Prepare a written report following each milestone inspection. The inspector shall notify University's Representative when work that does not comply with the Contract Document requirements is observed in the field. Observed instances of noncompliance shall be noted in the inspector's report.
- .3 Comment in subsequent inspector's reports on whether or not instances of noncompliance have been corrected.
- .4 Participate in punch list inspections for beneficial occupancy, substantial completion and final completion.
- .5 Assist University's Representative in reviewing test and inspection results from testing laboratories. If University contracts for specialty inspection services, the inspector shall report the results of these inspections to University's Representative.
- .6 Not authorize deviations from the Contract Documents.
- .7 Not advise or issue directions to Contractor regarding any aspect of construction means, methods, techniques, sequences, or procedures or regarding safety programs in connection with the Project.

### **6.7 MATERIALS TESTING**

**6.7.1** University will contract with soils and materials testing laboratories upon Design Professional's recommendations and as required by the Specifications. University's Representative or University's Representative's delegate will coordinate the activities of Contractor and University's testing consultants.

### **6.8 MATERIALS/COLOR SCHEDULE AND MATERIALS BOARDS - NOT USED.**

### **6.9 COMMISSIONING PLAN**

**6.9.1** Design Professional shall review Contractor's or University's Commissioning Plan for accurate incorporation of design intent.

## 6.10 PUNCH LIST

**6.10.1** Design Professional and its consultants shall review the construction with University's Representative and Contractor when notified that the construction is substantially complete, and again when notified that the construction is fully complete. Design Professional shall compile a punch list indicating any lack of compliance with Contract Document requirements and submit to University's Representative. University's Representative, Design Professional, and Contractor shall also inspect the construction when Beneficial Occupancy is required by University or stipulated in the Contract Documents. Design Professional shall advise on the issuance of the Certificate of Beneficial Occupancy and the Certificate of Substantial Completion in accordance with the Contract Documents.

## 6.11 FINAL APPROVAL AND INSPECTION ACCEPTANCE

**6.11.1** Design Professional and its consultants shall:

- .1 Assist University's Representative to review Contractor's guarantees, and operating data to assess compliance with the Contract Document requirements.
- .2 Assist University's Representative to assemble written guarantees, operating and maintenance instruction books, diagrams, and charts required of Contractor. University's Representative is responsible for verifying that all required submittals have been received.
- .3 Recommend final acceptance of the construction and shall advise University of the acceptability of the work performed by Contractor.
- .4 Advise as to readiness for occupancy and sign a statement of that advice on University's Certificate of Occupancy and Temporary Certificate of Occupancy, as appropriate.
- .5 Attend a final inspection and sign a Final Completion form.

## 6.12 REVIEW OF CONTRACTOR'S AS-BUILT DOCUMENTS

**6.12.1** Design Professional shall review Contractor's As-Built Documents prior to or immediately following each Contractor pay request submitted to verify that Contractor's work is in compliance with the Contract Documents. Design Professional shall review Contractor's final As-Builts and verify University's approval of the changes shown on the As-Builts prior to Design Professional's preparation of the final Record Documents.

## 6.13 RECORD DOCUMENTS

**6.13.1** University will furnish to Design Professional As-Built Documents as developed by Contractor for Design Professional's use in development of the Record Documents. Any revisions or changes that have been made during construction shall be incorporated in the Record Documents to show the As-Built condition of the Project. The Record Documents shall include the Contract Documents and the BIM, as applicable. The Record Drawings shall include all revisions and changes made during construction both as issued by Design Professional and University and as recorded by Contractor during the course of the Project. Merely supplementing the Contract Drawings with Change Orders and Field Directive documents stamped "AS-BUILT" is not acceptable. All changes shall be transferred to the original drawings, including the revision of the digital files (AutoCAD or Revit or equal as approved in advance by University's Designated Administrator plus PDF of same drawings) for the Drawings, to reflect a true "As-Built" condition. The digital files (e-transmit.dwg and .pdf) shall be labeled "RECORD DRAWING" with the appropriate date. Design Professional shall submit an interim set of Record Drawings at the midpoint of construction incorporating all changes to date. The final Record Drawings shall be submitted to University within 30 days of receiving Contractor's As-Built Drawings.

## ARTICLE 7 - ADDITIONAL SERVICES

Unless required to be performed as part of basic services, the services described in this Article are additional services as described in Agreement Article 3.

### 7.1 PRELIMINARY DESIGN

**7.1.1** Provide a rough order of magnitude cost estimate based on an anticipated program, scope, schedule, and building area.

**7.1.2** Provide programming services including but not limited to the following:

- .1 Meetings.
- .2 Confirm design and sustainability goals.
- .3 Review and confirm design requirements including sustainability criteria.
- .4 Conduct user interviews.
- .5 Establish and evaluate space needs and data.
- .6 Develop project schedule, delivery method and cost model.
- .7 Conduct space/cost reviews and adjustments.
- .8 Prepare programming document.

### 7.2 PRE-CONSTRUCTION PHASES

**7.2.1** Provide analyses of University's need and formal programming documentation of the requirements of the Project.

- 7.2.2** Provide planning surveys, site evaluations, environmental studies, or comparative studies of prospective Project sites.
- 7.2.3** Provide services to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by University beyond those reasonably and customarily provided in Basic Services except that additional information recommended by Design Professional in accordance with Agreement subparagraph 2.1.6 shall not entitle Design Professional to additional compensation.
- 7.2.4** Provide planning services for tenant or rental spaces.
- 7.2.5** Provide financial feasibility studies or other special studies.
- 7.2.6** Prepare special surveys, environmental studies, and submissions required for review or approval by governmental authorities or others having jurisdiction over the Project except submittals required for approval of the Construction Documents and as required to prepare Change Orders under basic services as stipulated in this Agreement.
- 7.2.7** Prepare revisions to the documents during the design phases when these revisions are inconsistent with data or written approvals previously given by University, excluding (1) corrections of design errors or omissions, and (2) modifications of the Construction Documents in accordance with Articles 4 and 5 and paragraph 1.4 herein.
- 7.2.8** Provide services related to future facilities, systems and equipment that are not intended to be constructed during the Construction phase or that are not anticipated in the Project Program.
- 7.2.9** Provide interior design and similar services required for or in connection with the selection, procurement, or installation of furniture, furnishings and related equipment that are not included in the Construction Documents.
- 7.2.10** Provide detailed quantity surveys or inventories of material, equipment, and labor.
- 7.2.11** Make investigations or take inventories of materials or equipment, or make valuations and detailed appraisals of existing facilities.
- 7.2.12** Provide analyses of owning and operating costs, except as needed to prepare the energy analysis required herein.
- 7.2.13** Provide perspective drawings, models, and mock-ups, including slides thereof except as indicated in paragraph 2.1 herein for Schematic Design (if applicable) and paragraph 1.5 herein for Regents (or Regents' Designated Authority) presentation.
- 7.3 CONSTRUCTION PHASE**
- 7.3.1** Prepare drawings, specifications, supporting data, and other services in connection with Change Orders. Services shall include, but not be limited to, provision of cost and schedule analyses associated with Field and Change Orders
- 7.3.2** Provide written communications with Contractor, or provide other University's Representative services as described in the Contract Documents, including but not limited to review and approval of Contractor cost, schedule or application for payment data.
- 7.4 POST-CONSTRUCTION**
- 7.4.1** Provide services as necessary to correct major defects or deficiencies in the Work of Contractor when such defects or deficiencies require services in excess of those reasonably expected on a project of this type, size and complexity, excluding warranty items, provided that such defects or deficiencies are not caused in whole or in part by errors or omissions on the part of Design Professional.
- 7.4.2** Provide extensive assistance in the utilization of any equipment or system; prepare operation and maintenance manuals; train personnel for operation and maintenance; and consult during operation.
- 7.4.3** Provide services after the issuance of the final Certificate for Payment provided that these services do not relate to the guarantee or warranty services described in Agreement subparagraph 2.6.9 or to corrections of design errors or omissions.
- 7.4.4** Provide services regarding replacement of any Work damaged by fire or other cause (excluding any cause resulting from the negligent acts, errors, or omissions by Design Professional).
- 7.5 GENERAL**
- 7.5.1** Provide services in connection with a public hearing, mediation, arbitration proceeding, or legal proceeding, except where Design Professional is party thereto.
- 7.5.2** Provide services made necessary by the termination of Contractor but only to the extent such services exceed the level of service that would have been provided in the absence of a termination of Contractor.

END OF EXHIBIT C

# **EXHIBIT E** **TO THE** **EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

## **REIMBURSEMENT SCHEDULE**

Design Professional will be reimbursed actual expenditures (up to the maximum limit) in accordance with the following reimbursement schedule only when said expenditures are authorized in writing in advance by University, and only when paid invoices, receipts or other proof of payment is submitted:

<b>Item</b>	<b>Description</b>	<b>Maximum Limit</b>
Mileage	Non-rented car	Current Rate*
Per diem	Daily meal and incidental expenses (for periods in excess of 24 hours)	\$62.00**
Air Fare	Refundable ticket, coach, roundtrip	As approved in advance by University
Rental car	Rented car	As approved in advance by University
Hotel	Lodging expenses must be supported by original itemized receipts, regardless of the amounts incurred, and must be reasonable for the locality of travel. The traveler must be at least forty miles from the headquarter location or home, whichever is closer, to be reimbursed for an overnight stay.	

- \* The mileage reimbursement rate is the standard rate for automobiles published by University in Business & Finance Bulletin G-28, "Policy and Regulations Governing Travel," as may be adjusted from time to time by University. Said rate is currently 53.5 cents/mile.
- \*\* For travel of less than 24 hours, Meals and Incidental Expenses ("M&IE") shall not be reimbursed unless the travel includes an "overnight stay" as supported by a lodging receipt. For domestic travel, reimbursement is limited to the actual cost of lodging. Actual M&IE shall be reimbursed up to a maximum of \$62.00 for the entire trip. An exception to the overnight stay requirement may be allowed when the traveler incurs a meal expense as part of a business meeting and must be substantiated as specified in advance by University.

Transportation, lodging, per diem and related expenses for travel between Design Professional's offices and travel between offices of Design Professional and offices of its consultants are not reimbursable. Transportation expenses shall be paid on the same basis and shall be subject to the same conditions as those in effect for employees of University. These expenses shall not be compensable unless authorized, in writing, in advance by University and subject to the following condition(s):

Transportation, lodging, and living expenses shall be reimbursable only while traveling outside the greater Los Angeles area.

### **REPRODUCTION, POSTAGE, AND MISCELLANEOUS EXPENSES:**

Expenses for printing, reproductions, postage, handling and delivery for documents, reports, surveys, drawings, and other materials, excluding reproductions for office use by Design Professional and its consultants and postage and delivery for transmittals between Design Professional's offices or between Design Professional and its consultants.

**EXHIBIT G**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**  
**PROJECT PROGRAM**

SAMPLE

**EXHIBIT H**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

**INSURANCE**

(attached)

SAMPLE

# EXHIBIT I TO THE EXECUTIVE DESIGN PROFESSIONAL AGREEMENT

Order Number: {#}

## AMENDMENT

Project Name: {Name}  
Project Number: {Number}

Date: {date}

Design Professional (Vendor):  
{TBD}

Amendment Number: {#}  
(Contract ID {#})

Negotiated Lump Sum Fixed Fee: \${TBD}

A. The Agreement between the Regents of the University of California and Design Professional, is hereby amended as follows:

1. **{UCLA-INSERT MODIFICATIONS TO THIS AGREEMENT}**

All terms and conditions of this Agreement shall remain in full force and effect unless expressly modified herein or by another duly executed Amendment.

IN WITNESS WHEREOF, University and Consultant have executed this Amendment on the date indicated below.

FOR THE UNIVERSITY

By: \_\_\_\_\_ Dated \_\_\_\_\_  
{Name}  
{Title}

FOR THE DESIGN PROFESSIONAL

By: \_\_\_\_\_

Dated



# **EXHIBIT K** **TO THE** **EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

## **SELF-CERTIFICATION**

For the Contractor and each Subcontractor indicated on the Report of Subcontractor Information, the following must be completed.

OR

For the Consultant and each Sub-consultant, the following must be completed.

Indicate all Business category(ies) that apply by initialing next to the applicable category(ies):

\_\_\_\_\_  
(Initial if applicable) **Small Business Enterprise (SBE)** - an independently owned and operated concern certified, or certifiable, as small business by the Federal Small Business Administration (SBA). (Size standards by Standard Industrial Classification codes required by the Federal Acquisition Regulations, Section 19.102, may be found at <http://www.sba.gov/content/table-small-business-size-standards>.) The eligibility requirements for California contracting purposes is on the [Department of General Services website](http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx) at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx>. The University may rely on written representation by the vendors regarding their status.

\_\_\_\_\_  
(Initial if applicable) **Disabled Veteran Business Enterprise (DVBE)** - a business that is at least 51% owned by one or more disabled veterans or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. A Disabled Veteran is a veteran of the military, naval, or air service of the United States with a service connected disability who is a resident of the State of California. To qualify as a veteran with a service connected disability, the person must be currently declared by the United States Veterans Administration to be 10% or more disabled as a result of service in the armed forces.

\_\_\_\_\_  
(Initial if applicable) **Disadvantaged Business Enterprise (DBE)** - a business concern that is at least 51% owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free private enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans) are to be considered socially and economically disadvantaged.

\_\_\_\_\_  
(Initial if applicable) **Women-Owned Business Enterprise (WBE)** - a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

\_\_\_\_\_  
(Initial if applicable) **None of the above categories apply.**

I hereby certify under penalty of perjury under the laws of the State of California that I have read this certification and know the contents thereof, and that the business category indicated above reflects the true and correct status of the business in accordance with Federal Small Business Administration criteria and Federal Acquisition Regulations, FAR 19 pertaining to small, disadvantaged, women-owned, and disabled veteran business enterprises. I understand that falsely certifying the status of this business, obstructing, impeding or otherwise inhibiting any University of California official who is attempting to verify the information on this form may result in suspension from participation in University of California business contracts for a period up to five (5) years and the imposition of any civil penalties allowed by law.

INFORMATION FURNISHED BY:

\_\_\_\_\_  
(Print or Type Name of Owner and/or Principal)

\_\_\_\_\_  
(Name of Business or Firm)

a

\_\_\_\_\_  
(Insert type of business e.g. corporation, sole proprietorship, partnership, etc.)

By:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

PRIVACY NOTICE

The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University of California to provide the following information to individuals who are asked to supply personal information about themselves. Information furnished on the Self-Certification form may, in some cases, identify personal information of an individual.

- The University of California, Los Angeles, is requesting the information contained in this form and the accompanying Report of Subcontractor Information.
- The Small Business Coordinator at the University of California, Los Angeles, is responsible for maintaining the requested information. The contact information for the Small Business Coordinators may be found at: <http://www.ucop.edu/procurement-services/files/sbdmgr.xlsx>.
- The maintenance of information is authorized in part by Public Contract Code section 10500.5.
- Furnishing the information requested on this form is mandatory. If SBE, DBE, WBE and/or DVBE status is applicable, furnishing such information is mandatory.
- Failure to provide the information may be a violation of bidding procedures and/or breach of the contract and the University may pursue any and all remedies permitted by the provisions of the Contract Documents.
- The information on this form is collected for monitoring and reporting purposes in accordance with state law and University policy.

The individual may access information contained in this form and related forms by contacting the Small Business Coordinator(s).

**EXHIBIT L**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

**FINAL DISTRIBUTION OF CONTRACT DOLLARS**

Sheet No. 1 of 1

1	2	3	4	5					6	
Full Name of Business	Street Address, City, State and ZIP	Telephone No./ Fax No	Contact Name	Business Categories					Contract Dollars	
				SBE*	DBE*	WBE*	DVBE*	N/A	Amount (\$)	Percent (%)
(DP)										0%
(Sub1)										0%
(Sub2)										0%
(Sub3)										0%
										0%
										0%
										0%
										0%
										0%
										0%
										0%
										0%
										0%
<b>Total Contract Amount = \$ _____</b>				<b>Column 6 – Business Categories</b>					<b>SUBTOTALS</b>	
				SBE = Small Business Enterprise					\$	
				DBE = Disadvantaged Business Enterprise					\$	
				WBE = Women Business Enterprise					\$	
				DVBE = Disabled Veteran Business Enterprise					\$	

# **EXECUTIVE DESIGN PROFESSIONAL AGREEMENT** **FOR CM AT RISK DELIVERY**

Between  
**THE REGENTS OF THE UNIVERSITY OF CALIFORNIA**  
And  
**THE DESIGN PROFESSIONAL**

This AGREEMENT is made on \_\_\_\_\_ between The Regents of the University of California, a California Corporation, hereinafter called "University" and {DESIGN PROFESSIONAL}, hereinafter called "Design Professional."

The above named individual or firm shall be the Executive Architect or Engineer and shall comply with the licensing laws of the State of California regarding the practice of architecture and engineering in performing the services set forth in this Agreement for the following project:

UNIVERSITY OF CALIFORNIA, LOS ANGELES

Project Name: {UCLA PROJECT NAME}  
Project Number: {UCLA PROJECT NUMBER}  
Project Order Number:

PROJECT DESCRIPTION:

CONSTRUCTION BUDGET:

## **TABLE OF CONTENTS**

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**ARTICLE 1      GENERAL PROVISIONS**

**1.1      GENERAL REQUIREMENTS**

1.1.1      This Agreement shall be governed by the laws of the State of California.

1.1.2      In the event of a conflict between the provisions of any exhibit to this Agreement and the Agreement, the provisions of this Agreement shall govern.

1.1.3      University's exercise of any of its rights or remedies prescribed in this Agreement shall not relieve Design Professional from responsibility for damages or other losses incurred or to be incurred by University as a result of Design Professional's breach of its obligation under this Agreement.

1.1.4      Each design phase (Schematic, Design Development, Bidding Documents and Construction Documents), portions of which design phases are anticipated to occur concurrently, shall be subject to a separate written authorization to proceed to be issued by University. Work on a design phase shall not commence until issuance of the appropriate written authorization to proceed. Work on a design phase shall be based on documents, if any, from the prior design phase approved by University in writing (to the extent that such work is complete), any written directives by University with respect thereto, and any adjustments authorized by University in the Project Program or Construction Budget.

1.1.5      Time is of the essence for this Agreement.

1.1.6      Design Professional shall cooperate with University, its designees, CM/Contractor and other professionals University may employ in furthering the interests of University.

1.1.7      To the extent required by University, Design Professional shall consult with authorized employees, agents, and representatives of University relative to the design and construction of a Project.

1.1.8      Design Professional shall perform all services in compliance with applicable laws, codes, rules, regulations, ordinances, University policies, and Facility standards. University policies include without limitation those related to Seismic Safety and Sustainable Practices.

1.1.9      Services required by this Agreement include, at no additional cost to University, all services necessitated, in whole or in part, by errors and omissions of, or breach of this Agreement by, Design Professional, its subconsultants, or any person or entity working under Design Professional.

1.1.10     Design Professional shall pay all persons providing services and/or any labor on site, including any University location, no less than UC Fair Wage (defined as \$13 per hour as of 10/1/15, \$14 per hour as of 10/1/16, and \$15 per hour as of 10/1/17) and shall comply with all applicable federal, state and local working condition requirements.

1.1.11     This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a University approved digital signature process and shall have the same force and effect as the use of a manual signature. The University reserves the right to reject any digital signature that cannot be positively verified by the University system as an authentic digital signature.

**1.2      DESIGN PROFESSIONAL STANDARD OF CARE; CONSTRUCTION MANAGER AT-RISK MODE OF CONTRACTING**

1.2.1      Design Professional, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom Design Professional is responsible, shall provide all services pursuant to this Agreement in a manner consistent with the standard of care under California law applicable to those who specialize in providing such services for projects of the type, scope, and complexity of the Project; such services shall be provided in a manner consistent with the Construction Manager At-Risk Mode of Contracting as defined herein, which will require Design Professional, at no additional cost to University, to prepare plans and specifications for discrete portions of the Work that can be incorporated into separate Bid Packages for the various Subcontractors who will construct the Project. Such Subcontracts may be awarded concurrently with other subcontracts or individually, at different points in time, which may result in Design Professional completing portions of the design after commencement of construction of the Project and/or providing Construction Phase services before completion of all design phase services. The design work for each separate Bid Package shall separately be subject to all requirements applicable to the various phases set forth in this agreement (including the phases set forth in Article 2) and shall be performed in a manner consistent with the construction budget and Project Schedule.

**1.3      DEFINITIONS**

Unless defined differently herein, terms used in this Agreement shall have the same meaning as those used in University's Bidding Documents General Conditions in the Exhibits.

**1.3.1 Agreement.** The term "Agreement" means this Agreement, Supplemental Requirements, Exhibits, Amendments, and all other documents identified in this Agreement which together form the agreement between University and the Design Professional for the Work. The Agreement constitutes the complete agreement between University and the Design Professional and supersedes any previous agreements or understandings.

**1.3.2 As-builts (As-built Drawings and Specifications).** The term "As-builts" shall mean the record copy of the Contract Documents prepared by the CM/Contractor to record as-built conditions, current changes, and selections made during construction.

**1.3.3 Architect (or Engineer) of Record.** Except as specified in subparagraph 1.3.3.1 below, the term "Architect of Record" or "Engineer of Record" shall mean the specific University-approved Design Professional named in this Agreement who is the Design Professional's designated principal or staff member in charge of providing all services required by this Agreement.

**1.3.3.1** When design-build subcontractor bid packages are bid and awarded by CM/Contractor, the Engineer of Record for disciplines related to said design-build packages shall be the CM/Contractor's engineer responsible for said design and shall include the stamp and signature of a professional engineer currently registered in the State of California for the discipline under their responsible charge.

**1.3.4 Bidding Documents.** The term "Bidding Documents" shall mean those documents prepared and furnished by University for the purpose of obtaining bids from CM/Contractors to construct the Project, including without limitation, the General Conditions and General Requirements in the Exhibits.

**1.3.5 Construction Budget.** The term "Construction Budget" shall mean University's written statement of funds available to pay for the cost of construction.

**1.3.6 Construction Documents.** The term "Construction Documents" shall mean the documents prepared and furnished by the Design Professional to be used for bidding the construction work for the Project.

**1.3.6A Construction Manager At-Risk Mode of Contracting.** The term "Construction Manager At-Risk Mode of Contracting" shall mean the contracting mode used by the University to construct the Project. Under the Construction Manager At-Risk Mode of Contracting, the University will select a CM/Contractor through competitive bidding. The CM/Contractor will be responsible, within the limits prescribed in its contract, to provide both pre-construction and construction services (these services may overlap when portions of the design are being developed concurrently with ongoing construction). Pre-construction services will include using the Construction Documents prepared by Design Professional to solicit bids from Subcontractors; entering into Subcontracts with such Subcontractors consistent with competitive bidding laws applicable to the University; and utilizing the Subcontractors to whom such Subcontracts have been awarded to complete the Project within the Contract Time.

**1.3.7 Contract Documents.** The term "Contract Documents" shall mean the Advertisement for Bids, Instructions to Bidders, Supplementary Instructions to Bidders, Bid Form, Agreement, General Conditions, Supplementary Conditions, Exhibits to the Construction Documents, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Notice of Completion and all other items identified as Contract Documents in the Construction Contract Agreement between the University and the CM/Contractor.

**1.3.8 Coordination.** The term "Coordination" shall mean that the documents shall be consistent and in conformance each part with all other parts.

**1.3.9 Estimated Project Construction Cost.** The term "Estimated Project Construction Cost" shall mean Design Professional's written estimate in the form specified by University in the Exhibits, of the total Construction Cost of the Project at the various stages of the design process.

**1.3.10 Project.** The term "Project" means the project described on page 1 of this Agreement.

**1.3.11 Project Architect (or Engineer).** The term "Project Architect" or "Project Engineer" shall mean the specific University-approved Design Professional named in this Agreement who is the Design Professional's designated architect (or engineer) who is the first point of contact in providing all services required by this Agreement.

**1.3.12 Project Program.** The term "Project Program" shall mean a written statement in the Exhibits of University's design objectives, constraints, and criteria, including space requirements and relationships, flexibility and expendability, special equipment and systems, and Project site requirements.

**1.3.13 Project Schedule.** The term "Project Schedule" shall mean the schedule prepared by University showing project milestones, funding, design, design review, construction, and other deadlines applicable to the Project. The University may make reasonable changes to the Project Schedule, consistent with the Construction Manager At-Risk Mode of Contracting, which may include adding or adjusting timelines for preparing plans and specifications for discrete portions of the Work to be incorporated into separate Bid Packages that may be awarded concurrently with other subcontracts or individually, at different points in time, and which may result in Design Professional completing portions of the design after commencement of construction of the Project and/or providing Construction Phase services before completion of all design phase services.



**1.3.14** *Record Documents.* The term "Record Documents" shall mean those documents (including without limitation the updated version of the Construction Documents) prepared by the Design Professional incorporating Addenda, Change Orders and information from the As-builts and other data furnished by CM/Contractor to Design Professional.

**1.3.15** *University.* The term "University" shall mean the Regents of the University of California.

**1.3.16** *University's Representative.* The term "University's Representative" shall mean the person or entity providing University's Representative services as indicated in the Contract Documents including, but not limited to, issuance of written communications with the CM/Contractor.

**1.3.17** *University's Designated Administrator.* The term "University's Designated Administrator" shall mean the individual acting as University's Designated Administrator pursuant to paragraph 4.1.1.

## **ARTICLE 2 - DESIGN PROFESSIONAL'S SERVICES AND RESPONSIBILITIES - BASIC SERVICES**

Basic Services to be provided by Design Professional include the services described in this Article 2 and as further described in the Supplemental Requirements in the Exhibits.

### **2.1 GENERAL**

**2.1.1** The services of Design Professional shall be performed in accordance with the Agreement and the Supplemental Requirements in the Exhibits.

**2.1.2** To the extent deemed necessary by Design Professional to perform its services in accord with the Project Schedule (and all revisions and updates thereto), and as may be applicable at each particular stage of the progress of the Project, Design Professional shall employ architects, 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 under basic services shall be paid by Design Professional. Design Professional shall submit, for approval by University, names of consultants for each professional element of service of the Project. University-approved consultants provided under basic service shall be as named below.

(None identified at this time.)

Nothing in the foregoing shall create any contractual relationship between University and any consultants employed by Design Professional under the terms of this Agreement. Design Professional is as responsible for the performance of its consultants as it would be if it had rendered these services itself.

**2.1.3** Design Professional shall designate a 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 University, and remains in Design Professional's employ, the Project Architect or Project Engineer shall remain the first point of contact for all design and other services required under this Agreement, including attending design-related meetings for the Project, unless a substitution mutually acceptable to Design Professional and University is made. University-approved Project Architect or Project Engineer shall be the person named below:

{NAME}

Additionally, the University may require other individuals working for the Design Professional or its subconsultants to attend design-related meetings as requested by University.

**2.1.4** Design Professional shall assist University in fulfilling the requirements of the authorities and funding agencies whose interests bear on the design, cost, and construction of the Project.

**2.1.5** Design Professional shall abide by all regulations imposed by authorities having jurisdiction over the Project.

**2.1.6** Design Professional shall review: site surveys; existing record documents; seismic data; mechanical, geotechnical, and other test reports; environmental documents; and any other documentation furnished by University. 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 the manner in which it be provided and needed services obtained. Design Professional may rely on the information provided by University but only to the extent such reliance is consistent with Design Professional's obligations under this Agreement.

**2.1.7** Review, approval or acceptance of Design Professional's work whether by University or others and whether during Schematic Design Phase, Design Development Phase, Construction 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.

**2.1.8** Design Professional shall prepare Construction Documents in compliance with applicable laws, codes, rules, regulations, ordinances, and standards including, without limitation, those listed in the Supplemental Requirements in the Exhibits.

**2.1.9** As a result of the use of the form of contracting applicable to the Project, it is anticipated that Design Professional will concurrently perform certain of its obligations as set forth in this Agreement with regard to Schematic Design, Design Development, preparation of Construction Documents, preparation of Bidding Documents and services to be performed during Construction, as determined by the University. The services of Design Professional shall be performed in accordance with the Supplemental Requirements in the Exhibits. The Design Professional must provide for resources sufficient to permit the Design Professional to render all services pursuant to this Agreement in strict accord with the requirements of the Project Schedule (and all revisions and updates thereto). The Design Professional shall have the obligation and opportunity to contribute to the development of the Project Schedule (and revisions and updates thereto) as provided in this Agreement. The Design Professional shall strictly comply with the Project Schedule.

## **2.2 SCHEMATIC DESIGN PHASE**

**2.2.1** Upon University's written direction to proceed, Design Professional shall provide Schematic Design Phase services described herein and in the Supplemental Requirements in the Exhibits including, without limitation, Schematic Design Documents for approval by University.

## **2.3 DESIGN DEVELOPMENT PHASE**

**2.3.1** Upon University's written direction to proceed, Design Professional shall provide Design Development Phase services as described herein and in the Supplemental Requirements in the Exhibits and based on Schematic Design documents approved in writing by University and any written adjustments in the scope or quality of the Project or in the Construction Budget including, without limitation, Design Development Documents for approval by University.

## **2.4 CONSTRUCTION DOCUMENTS PHASE**

**2.4.1** Upon University's written direction to proceed, Design Professional shall provide Construction Documents Phase services as described herein and in the Supplemental Requirements in the Exhibits and based on any written adjustments in the scope or quality of the Project or in the Construction Budget including, without limitation, Construction Documents for approval by University.

**2.4.2** The Drawings and Specifications shall be consistent with the University's General Conditions in the Exhibits and the Division 1 tailored for the Project including but not limited to any Facility requirements.

## **2.5 BIDDING PHASES OF THE WORK**

**2.5.1** Upon University's written direction to proceed, Design Professional shall provide Bidding Phase services as described herein and in the Supplemental Requirements in the Exhibits.

**2.5.2** If the lowest responsive bid for a Bid Package exceeds the Construction Budget for the Bid Package by more than 10%, University may, at its discretion, (1) authorize rebidding of the Bid Package within a reasonable period of time; or (2) require Design Professional, at Design Professional's expense, to modify the design and the corresponding Construction Documents or Design Package(s) for Bid Package, in order to reduce the Estimated Project Construction Cost for the Bid Package to a level that falls within the Construction Budget for the Bid Package; or (3) award the Bid Package; reduce the Construction Budget for Bid Packages to be bid at a later time by an amount commensurate with the amount by which the lowest responsive bid exceeds the Construction Budget for the Work of the Bid Package; and require Design Professional, at Design Professional's expense, to modify the design and corresponding Construction Documents to be included in Bid Packages to be bid later in time so that the Estimated Project Construction Cost for such Bid Packages is consistent with the reduced Construction Budget. Modifications proposed by Design Professional shall require University approval prior to incorporation into the revised documents.

## **2.6 CONSTRUCTION PHASE**

**2.6.1** Upon University's written direction to proceed, Design Professional shall provide Construction Phase services as described herein and in the Supplemental Requirements in the Exhibits.

**2.6.2** The Construction Phase will commence on the date established by the Agreement between University and CM/Contractor, and will terminate one year after Notice of Completion or Notice of Cessation or, in the absence of a Notice of Completion or Notice of Cessation, one year after Final Completion, of the entire Work.

**2.6.3** Except as otherwise provided in the Contract Documents or as directed by University, all written communications with CM/Contractor shall be sent and received by University's Representative.

**2.6.4** Design Professional shall attend and participate in all pre-construction meetings called by the University's Representative. Pre-construction meetings may be held prior to commencement of separate portions of the Project. Attendees shall be Design Professional's consultants, CM/Contractor and major subcontractors, University's Designated Administrator and others as deemed necessary by the University.

**2.6.5** Design Professional shall render design interpretations of, and design decisions regarding, the Contract Documents that are necessary for the proper execution or progress of the Work including provision of clarifications and interpretations of the Contract

Documents that are consistent with the intent of the documents but which do not involve a change in the scope of the Work. Such clarifications and interpretations shall not involve an adjustment of the Contract Sum or an extension of the Contract Time.

**2.6.6** Design Professional shall not be responsible for construction means, methods, techniques, sequences, procedures, or safety precautions and programs in connection with the Work, unless Design Professional specifies, directs, recommends or approves such means, methods, techniques, sequences, procedures, or safety precautions/programs.

**2.6.7** Design Professional shall prepare drawings and specifications needed to issue Field Orders and Change Orders as required by the Supplemental Requirements in the Exhibits.

**2.6.8** No additional compensation shall be paid to Design Professional for the preparation of Change Orders, including the preparation of Drawings, Specifications, and supporting data and other services required in connection with the preparation of Change Orders until the total cumulative value (calculated by adding the absolute values of both additive and deductive changes not caused, in whole or in part, by Design Professional errors or omissions) exceeds {TBD} percent of the Contract Sum.

**2.6.9** Design Professional shall provide Record Documents as described herein and in the Supplemental Requirements in the Exhibits.

**2.6.10** Design Professional shall review the Work at 11 months after Substantial Completion or Final Completion, as applicable, and shall make written recommendations to University for the correction of any deficiencies as required by the Supplemental Requirements in the Exhibits. Dates for inspections shall be as mutually agreed by the parties within the 11-month time frame. The number of work hours associated with the on-site review and preparation of written recommendations shall not exceed 32 hours excluding review and preparation necessitated in whole or in part by Design Professional's errors and omissions.

## **2.7 INDEPENDENT SEISMIC/STRUCTURAL REVIEW**

**2.7.1** This Project is subject to an independent seismic/structural review conducted by University and at University expense. Design Professional shall attend meetings as necessary to resolve all seismic issues. Design Professional shall present Drawings and other items as necessary to describe the Project design.

## **2.8 SCHEDULE**

**2.8.1** Design Professional acknowledges that all time limits and scheduling requirements stated in this Agreement are of the utmost importance to University. Design Professional shall comply with all time requirements of the Project Schedule, (and all revisions and updates thereto). The Project Schedule shall be revised and updated from time to time by the University and then provided in revised or updated form to the Design Professional by the University. The Project Schedule shall include time requirements for completion of Design Professional's services. Design Professional shall be obligated to participate in the development of the Project Schedule in the manner set forth in this Agreement, shall be provided an opportunity to comment upon and propose revisions to the Project Schedule prior to release and/or publication of the Project Schedule, and shall be provided an opportunity to comment upon and propose changes to all revisions of and updates to the Project Schedule prior to release and/or publication thereof. Design Professional's failure to comply with the Project Schedule (and all revisions and updates thereto) may cause economic damages to the University including but not limited to claims by the CM/Contractor to be compensated for delays in construction of the Project, claims by the CM/Contractor for acceleration of construction to compensate for delays caused by the Design Professional, and damages incurred by the University as a result of its inability to use the Project in the manner and within the time anticipated by the University.

**2.8.2** Design Professional shall submit its proposed work plan for the performance of Design Professional's services within {TBD} calendar days following the execution date of this Agreement. Design Professional's work plan shall include without limitation, a schedule for how Design Professional will comply with Project Schedule. The University will consider Design Professional's proposed work plan in preparing revisions and updates to the Project Schedule. Design Professional shall regularly provide information to the University regarding Design concerning its ability to comply with the Project Schedule (and any proposed revisions or updates thereto), and shall revise its work plan to conform to each revision of and/or update to the Project Schedule.

Design Professional's work plan shall include allowances for the periods of time required for University's review and approval of submissions and for approvals by authorities having jurisdiction over the Project. Design Professional's Work Plan shall include without limitation, a schedule for how Design Professional will comply with the Project Schedule. Design Professional's Work Plan, when approved by University, shall not be exceeded by Design Professional except when University and Design Professional mutually agree, in writing, to a revised Project Schedule.

**2.8.3** The total time scheduled for full completion of Design Professional's services for each phase of the Project shall not exceed the durations listed below, unless mutually agreed upon in writing by Design Professional and University. The durations for University review period listed in the Project Schedule shall be computed from the date on which a clear, complete submittal is received by University. University's failure to meet its commitment to provide written requested information or to review within the stipulated time frames shall be cause for an adjustment in the Project Schedule. However, submittals received for review which are rejected, in writing, as not meeting the deliverables required by this Agreement and the attachments thereto, shall not be cause for adjustment of the Project Schedule, and any such delay caused by such rejected submittals shall be at the sole responsibility of Design Professional.

- .1 Schematic Design Phase: Complete within # weeks plus # weeks approval time.
- .2 Design Development Phase: Complete within # weeks, plus # weeks for approval time.

- .3 Construction Documents Phase: Complete within # weeks, plus # weeks for approval time.

### **ARTICLE 3 - DESIGN PROFESSIONAL'S SERVICES AND RESPONSIBILITIES-ADDITIONAL SERVICES**

Unless required in Article 2 of this Agreement, or in the Supplemental Requirements in the Exhibits, to be performed as part of Basic Services, the services described in this Agreement and the Supplemental Requirements are Additional Services. These Additional Services shall be paid for by University, as provided in this Agreement, in addition to the compensation for Basic Services. Design Professional shall provide Additional Services only when and as authorized in a written instrument signed by University. No Additional Services shall be compensable unless so authorized.

### **ARTICLE 4 - UNIVERSITY RIGHTS AND RESPONSIBILITIES**

#### **4.1 ADMINISTRATION**

**4.1.1** University shall designate, in writing, an Administrator who will act on behalf of University with respect to this Agreement. Design Professional shall accept directives only from University's Designated Administrator and not from other University employees or consultants. University may replace University's Designated Administrator at its sole option; if this replacement is made, University shall notify Design Professional in writing.

**4.1.2** University shall designate, in writing, prior to bidding, a University's Representative.

#### **4.2 PROVISION OF INFORMATION, SURVEYS, AND REPORTS**

**4.2.1** University shall have the right to make changes to the Project Program contained in the Exhibits. When such changes increase the duties of Design Professional beyond those reasonably and customarily provided in Basic Services, Design Professional shall be compensated in accordance with this Agreement.

**4.2.2** University shall have the right to make reasonable changes to its Bidding Documents and Design Professional shall be bound by such changes. When such changes increase the duties of Design Professional, beyond those reasonably and customarily provided in Basic Services, Design Professional shall be compensated in accordance with this Agreement.

**4.2.3** University shall furnish structural, mechanical, electrical, chemical, soils, and other tests, inspections, and reports as required by law or by the Contract Documents, which are not required to be furnished by CM/Contractor under the Contract Documents.

**4.2.4** University shall revise and update the Project Schedule as dates and durations applicable to the Project such as funding deadlines, review periods, anticipated periods of Project suspension, and construction deadlines become known. Design Professional shall comply with all time requirements for work of the Design Professional that are set forth in the Project Schedule (and revisions and updates thereto).

**4.2.5** If required for the performance of Design Professional's services, University shall furnish an accurate land survey of the Project site, giving, as applicable, grades and lines of streets, alleys, pavements, and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries, and contours of the site; locations, dimensions, and floor elevations pertaining to existing buildings, other improvements, and trees; and information in University's possession concerning available service and utility lines, both public and private.

**4.2.6** University shall furnish geotechnical data when these data are reasonably deemed necessary by Design Professional, including test logs, soil classifications, soil bearing values, and other data necessary to define subsoil conditions.

**4.2.7** University shall have the right to require Design Professional and its subconsultants to participate in meetings and provide documents and data (in addition to those required by Basic Services) and to perform Additional Services, pursuant to this Agreement, whether or not such Additional Services are described in the Agreement or the Supplemental Requirements.

**4.2.8** The services, information, surveys, and reports required by this Article 4 shall be furnished at University's expense.

### **ARTICLE 5 COMPENSATION**

University will compensate Design Professional for the scope of services provided, in accordance with this Article 5 and with the other terms and conditions of this Agreement, as follows:

#### **5.1 COMPENSATION FOR BASIC SERVICES**

**5.1.1** The fee for Basic Services shall be computed as follows:

For services rendered in accordance with this Agreement, the basis for compensation shall be a lump-sum fee in the amount of {COMPENSATION AMOUNT}, (includes reimbursables) payable upon completion of each Project phase, after the review and approval by University, in accordance with the following rate schedule. Services required by the Design Development

Phase and the Construction Documents Phase shall only be performed, and University will only be obligated to compensate the Design Professional therefore, if University has issued a notice to proceed under paragraphs 2.3.1 and 2.4.1:

<u>Phase or Stage Completed</u>	<u>Portions of Total Fees to be Paid at Completion</u>
Schematic Design Phase .....	Increase to \$
Design Development Phase .....	Increase to \$
Construction Document Phase .....	Increase to \$
Bidding Phase (Award of Construction Contract) .....	Increase to \$
	(or a proportional percentage when a portion of the Project is awarded)
Construction Completed .....	Increase to \$
Receipt of Design Professional's Record Documents .....	Increase to \$
Guarantee to Repair Period Services Completed .....	Increase to \$

**5.2 COMPENSATION FOR ADDITIONAL SERVICES**

**5.2.1** For the Additional Services of Design Professional, as described in Article 3, including the Additional Services of consultants, compensation shall be in accordance with the attached Rate Schedule in the Exhibits.

**5.2.2** If the Contract Time initially established in the Contract Documents at the time of award is exceeded or extended by a number of days in excess of {TBD} calendar days through the fault of University or CM/Contractor and through no fault of Design Professional, compensation for any Basic Services provided during this extended period of the construction period of the construction contract shall be adjusted to compensate Design Professional for any additional costs reasonably incurred by Design Professional as the result of such delay, provided University has approved such adjustments in advance. These extended Basic Services shall be approved, in writing, by University and shall not include Basic Services that would have been performed under this Agreement had the initial Contract Time not been substantially exceeded or extended.

**5.2.3** If the Work is suspended or abandoned for more than 3 consecutive months, and such suspension was not scheduled at the beginning of the Project, as provided under subparagraph 4.2.4, Design Professional shall be compensated for all authorized services performed prior to the receipt of written notice from University of such suspension or abandonment, together with Reimbursable Expenses then due. If the Project is resumed after being suspended for more than 6 consecutive months, Design Professional's compensation shall be adjusted as mutually agreed to compensate Design Professional for any additional costs reasonably incurred as the result of the suspension.

**5.3 REIMBURSABLE EXPENSES**

**5.3.1** For Reimbursable Expenses, as described in this paragraph 5.3, only actual costs will be reimbursed in accordance with the Reimbursement Schedule in the Exhibits. Paid invoices or other proof of payment shall be submitted when requesting reimbursement.

**5.3.2** Reimbursable Expenses are paid in addition to the compensation for Basic and Additional Services and are actual expenditures made by Design Professional and Design Professional's consultants in the interest of the Project.

**ARTICLE 6 PAYMENTS**

**6.1 PAYMENTS FOR BASIC SERVICES**

**6.1.1** Payments for Basic Services, as defined in Article 2, shall be made as stipulated in subparagraph 5.1.1.

**6.2 PAYMENTS FOR ADDITIONAL SERVICES AND REIMBURSABLE EXPENSES**

**6.2.1** Payments for Design Professional's Additional Services, as defined in Article 3, and for Reimbursable Expenses, as defined in paragraph 5.3, shall be made monthly after presentation of Design Professional's statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof.

**6.2.2** Payments related to paragraph 5.2.2 shall be made monthly after presentation of Design Professional's statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof unless otherwise agreed by the parties thereto.

**6.3 PAYMENT SUBMITTAL**

**6.3.1** Invoices against this Agreement shall be submitted to:

UCLA Accounting Dept.  
Address 1  
Address 2

**ARTICLE 7**      **DESIGN PROFESSIONAL'S RECORDS AND FILES**

**7.1** Books and records relating to this Agreement shall be maintained in accordance with Generally Accepted Accounting Principles (GAAP) or International Financial Reporting Standards (IFRS). University or University's authorized representative shall have access to, the right to audit and the right to copy pertinent parts of Consultants' books and records. Consultants records shall include but not be limited to accounting records (hard copy, as well as computer readable data); contracts; payroll records; subconsultant agreements; vendor agreements; purchase orders; leases; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this agreement. All such books and records shall be preserved for a period of at least 3 years from the date of Final Payment under this Agreement.

**7.2** Design Professional and Design Professional's consultants shall make their files available for inspection and copying by University upon reasonable notice.

**7.3** Design Professional shall include appropriate language in consultants' agreements to enforce the provision of paragraph 7.2.

**ARTICLE 8**      **OWNERSHIP AND USE OF DOCUMENTS**

**8.1**      **DRAWINGS, SPECIFICATIONS, AND PRESENTATION MATERIALS**

**8.1.1** Drawings (including coordination or Design Development Revit or equal models) and Specifications shall become the property of University, whether or not the Project for which they are made is executed. Design Professional shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference except as provided in paragraph 8.2. Neither University nor Design Professional shall use the Drawings and Specifications as a whole or in substantial part on other projects, but either may reuse details of the Drawings for other projects.

**8.1.2** All presentation drawings, slides, and models shall become and remain the property of University.

**8.1.3** University may purchase the design of the Project from Design Professional for its then fair market value. If University purchases the design of the Project, then University may use the Drawings and Specifications as a whole or in substantial part on other projects, and Design Professional may not use the Drawings and Specifications in whole, in part, or details thereof for other projects.

**8.2**      **CONSTRUCTION DOCUMENTS**

**8.2.1** Design Professional, upon request, shall provide copies of the Construction Documents in the number required by University for bidding and construction purposes; the reproduction expense shall be borne by University. University reserves the right to select the type of document reproduction and to establish where the reproduction will be accomplished.

**8.2.2** University may use the Construction Documents, without Design Professional's consent, in connection with the Project, including without limitation, future additions, expansions, renovations, alterations, connections, repairs, information, reference, use, or occupancy.

**8.2.3** Except as provided in subparagraphs 8.2.1 and 8.2.2 University will not use the Construction Documents for another project without Design Professional's written consent unless University has purchased the design from Design Professional in accordance with subparagraph 8.1.3.

**8.3**      **INDEMNIFICATION**

**8.3.1** University will defend, indemnify and save harmless Design Professional, its officers, agents and employees from any costs or claims for damages arising from University's use, on other projects, of the Construction Documents, the Drawings and Specifications, or the designs depicted in them. As used in this Article 8, the "use, on other projects" does not include any of the uses specified in subparagraph 8.2.2.

**8.3.2** Notwithstanding paragraph 8.3.1, University will not defend, indemnify or save harmless Design Professional, its officers, agents, or employees from any costs or claims asserted or imposed by any person or entity claiming that University's use of the Construction Documents, the Drawings and Specifications, or the designs depicted in them is contrary to or in violation of any copyright, patent, trade secret, trade name, trademark, or any proprietary, contractual or legal right pertaining to their use.

**ARTICLE 9      DISPUTES**

**9.1      NEGOTIATION**

**9.1.1**      The parties will attempt in good faith to resolve any controversy or Claim arising out of or relating to this Agreement by negotiation.

**9.2      MEDIATION**

**9.2.1**      Within 60 days, but no earlier than 30 days, following the earlier of (1) receipt of notice by the other party from the American Arbitration Association (AAA) of the disputing party's demand for arbitration or (2) receipt by the other party of the disputing party's notice of election to litigate, the parties shall submit the matter to non-binding mediation administered by the AAA under its construction industry mediation rules, unless waived by mutual stipulation of both parties.

**9.3      ARBITRATION OR LITIGATION**

Disputes arising from this Agreement between Design Professional and University which cannot be settled through negotiation or mediation shall be subject to arbitration or litigation as follows.

**9.3.1      Arbitration with CM/Contractor.** If any claim arises under the Construction Contract Documents for the Project and is submitted to arbitration, and either CM/Contractor or University claims that the acts or omissions of Design Professional are involved, in whole or in part, any claim by University against Design Professional arising out of or in connection therewith may be asserted, at the option of University, against Design Professional in the same arbitration proceeding which shall be conducted under the procedures specified in the General Conditions of the construction contract.

**9.3.2      Litigation with CM/Contractor.** If any claim arises under the Construction Contract Documents for the Project and is submitted to litigation, and either CM/Contractor or University claims that the acts or omissions of Design Professional are involved, in whole or in part, any claim by University against Design Professional arising out of or in connection therewith may be asserted, at the option of University, against Design Professional in the same litigation.

**9.3.3      Arbitration without CM/Contractor.** Disputes arising from this Agreement between Design Professional and University which cannot be settled through negotiation or mediation, and which are not resolved by arbitration or litigation pursuant to subparagraphs 9.3.1. and 9.3.2 shall be subject to arbitration without CM/Contractor conducted in accordance with the Construction Industry Arbitration Rules of the AAA then in effect (except as otherwise provided in this Agreement). The following additional modifications shall be made to the aforesaid Rules of the AAA:

- .1      Civil discovery shall be permitted for the production of documents and taking of depositions. Other discovery may be permitted in the discretion of the arbitrator. All disputes regarding discovery shall be decided by the arbitrator.
- .2      University's Representative and/or University's consultants, shall if required by agreement with University, upon demand by University, join in and be bound by the arbitration.
- .3      Concurrent disputes subject to this subparagraph 9.3.3 shall be consolidated into a single arbitration unless the parties otherwise agree in writing.
- .4      No hearing shall be held prior to final completion of the Project unless University and Design Professional otherwise agree in writing.
- .5      The exclusive forum for determining arbitrability shall be the Superior Court of the State of California.
- .6      If total claims are less than \$50,000, AAA expedited procedures as modified by this Article 9 shall apply. If total claims are between \$50,000 and \$100,000 they shall be heard by a single arbitrator who shall be an attorney. If total claims are in excess of \$100,000 and are submitted to arbitration, the controversy shall be heard by a panel of 3 arbitrators, one of whom shall be an attorney.
- .7      The AAA shall submit simultaneously to each party to the dispute an identical list of at least 10 names of persons chosen from the National Panel of Commercial Arbitrators, and each party to the dispute shall have 10 days from the date of receipt in which to cross off any names objected to, number the remaining names in order of preference and return the list to AAA. If the expedited procedures of the AAA are applicable, the AAA shall submit simultaneously to each party an identical list of 5 proposed arbitrators drawn from the National Panel of Commercial Arbitrators, and each party may strike 3 names from the list on a peremptory basis and return the list to AAA within 10 days from the date of receipt.

**9.3.4**      Unless University and Design Professional otherwise agree in writing, the arbitration decision shall be made under and in accordance with the laws of the State of California, supported by substantial evidence. If the total of all claims or cross claims submitted to arbitration is in excess of \$50,000, the award shall contain the basis for the decision, findings of fact, and conclusions of law.

**9.3.5**      Any arbitration award shall be subject to confirmation, verification or correction under the procedures and on the grounds specified in the California Code of Civil Procedure including without limitation Section 1296.

**9.3.6**      The expenses and fees of the arbitrators and the administrative fees of the AAA shall be divided among the parties equally. Each party shall pay its own counsel fees, witness fees, and other expenses incurred for its own benefit.

**9.3.7** The University may offset against the outstanding contract balance the amount of the University's own affirmative claims against the Design Professional provided such claims are based upon alleged breaches of this Agreement or alleged failure to conform to the professional standard care set forth in Article 1.2 of this Agreement. The University shall inform the Design Professional in writing of its intention to offset on or before exercising its right to offset under this Agreement. Within 3 days following receipt of such written notice, the Design Professional may elect to submit the issue of the University's intention to offset to non-binding mediation administered by the AAA. Such mediation shall take place not less than 15 days and not more than 45 days following the date that the University receives notice of Design Professional's election to mediate regarding the University's intention to offset, unless the parties mutually agree to an extension of the mediation period in writing. The University's obligation to pay any outstanding contract balance shall be stayed and tolled until the first business day following the date of the mediation concerning the University's intention to offset. If the University decides to exercise its right to offset following mediation regarding the University's intention to offset, notice of such offset shall be given to Design Professional by University in writing. If Design Professional does not demand mediation concerning the University's intention to offset, then the University's notice of its intention to offset shall be deemed notice of the decision to offset by the University. Irrespective of whether Design Professional elects to mediate the issue of the University intention to offset, Design Professional may dispute the University's decision to offset by demanding arbitration or commencing litigation pursuant to the terms of Article 9.

#### **9.4 PERSONAL INJURY, WRONGFUL DEATH OR PROPERTY DAMAGE**

**9.4.1** Claims for personal injury, wrongful death, or property damage (other than property damage to University) shall not be subject to arbitration under Paragraph 9.3.3.

### **ARTICLE 10 - INDEMNIFICATION AND INSURANCE**

#### **10.1 INDEMNIFICATION**

**10.1.1** Design Professional shall indemnify, defend, and hold harmless University and its Regents, officers, employees, agents, and representatives (collectively, "Indemnitee"), against all liability, demands, claims, costs, damages, injury including death, settlements, and expenses (including without limitation, interest and penalties) incurred by Indemnitee ("Losses") arising out of the performance of services or Design Professional's other obligations under this Agreement, but only in proportion to and to the extent such Losses are caused by or result from (1) the negligent acts or omissions of Design Professional, its officers, agents, employees, subcontractors, consultants, or any person or entity for whom Design Professional is responsible (collectively, "Indemnitor"); (2) the breach by Indemnitor of any of the provisions of this Agreement; or (3) willful misconduct by Indemnitor.

**10.1.2** The indemnification obligations under this Article 10 shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the Losses were caused in part by the negligence of, breach of contract by, or violation of law by Indemnitee. The obligation to defend shall arise regardless of any claim or assertion that Indemnitee caused or contributed to the Losses. Indemnitor's reasonable defense costs (including attorney and expert fees) incurred in providing a defense for Indemnitees shall be reimbursed by University except to the extent such defense costs arise, under principles of comparative fault, from Indemnitor's (a) negligent acts or omissions; (b) breach of any of the provisions of this Agreement; or (c) willful misconduct.

**10.1.3** Design Professional shall indemnify, defend, and save harmless Indemnitee from and against all loss, cost, expense, royalties, claims for damages or liability, in law or in equity, including, without limitation, attorneys' fees, court costs, and other litigation expenses that may at any time arise or be set up for any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark or any other proprietary right of any person or entity in consequence of the use on the Project by Indemnitee of the design or construction documents (including any method, process, product, concept specified or depicted) supplied by Indemnitor in the performance of this Agreement.

**10.1.4** Nothing in this Agreement, including the provisions of this Article 10, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

#### **10.2 INSURANCE REQUIREMENTS**

Design Professional, at Design Professional's sole cost and expense, shall insure its activities in connection with this Agreement and shall obtain, keep in force, and maintain insurance as listed below. The coverages required under Paragraph 10.2 shall not in any way limit the liability of Design Professional.

**10.2.1** Commercial-Form General Liability Insurance with coverage and minimum limits as follows:

.1	Each Occurrence	{TBD}
.2	Products Completed, Operations Aggregate	{TBD}
.3	Personal and Advertising Injury	{TBD}
.4	General Aggregate	{TBD}

**10.2.2** Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles, with a combined single limit of no less than {TBD} per accident.

**10.2.3** Professional Liability Insurance, with limits of {TBD} per claim and {TBD} in the aggregate. At the option of University and in its sole discretion, University may require Design Professional to purchase project specific professional liability insurance for the Project as a reimbursable cost with the minimum limits.



**10.2.4** If the above insurance (subparagraphs 10.2.1-10.2.3) is written on a claims-made basis, it shall be maintained continuously for a period of no less than 3 years after the date of Final Completion. The insurance shall have a retroactive date of placement prior to or coinciding with the date services are first provided that are governed by the terms of this Agreement and shall include, without limitation coverage for professional services as called for in this Agreement. Insurance required by subparagraphs 10.2.1-10.2.3 shall be (i) issued by companies that have a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's).

**10.2.5** Workers' Compensation as required by law in the state in which work is performed and Employer's Liability insurance with coverage and minimum limits as follows:

Each Employee	\$1,000,000.00
Each Accident	\$1,000,000.00
Policy Limit	\$1,000,000.00

Insurance required by this subparagraph 10.2.5 shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's); or (ii) that are acceptable to the University.

**10.2.6** Design Professional, upon the execution of this Agreement, shall furnish University with Certificate of Insurance evidencing compliance with this Article 10, including the following requirements:

- .1 Design Professional shall have the insurance company complete University's form, Certificate of Insurance in the Exhibits. If Design Professional's insurance company refuses to use the University's Certificate of Insurance form, it must provide a Certificate of Insurance (and endorsements, if needed) evidencing compliance with Paragraph 10.2 and Special Provisions 1 through 3 on the Certificate of Insurance in the Exhibits. It alone constitutes evidence of insurance.
- .2 Provide that coverage cannot be canceled without advance written notice to University, in accordance with policy provisions.
- .3 If insurance policies are canceled for non-payment, University reserves the right to maintain policies in effect by continuing to make the policy payments and assessing the cost of so maintaining the policies against Design Professional.
- .4 University, University's officers, agents, employees, consultants, University's Representative, and University's Representative's consultants, regardless of whether or not identified in the Contract Documents or to Design Professional in writing, will be included as additional insureds on Design Professional's general liability policy for and relating to the Work to be performed by Design Professional and its consultants. Design Professional's general liability insurance policy shall name University as an additional insured pursuant to additional insured endorsement CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04). The General Liability coverage shall contain a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees. Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance. This requirement shall not apply to Worker's Compensation and Employer's Liability Insurance. The Professional Liability insurance policy shall include Contractual Liability Coverage or endorsements to the insurance policies for Contractual Liability Coverage for liability that would exist in the absence of the contract.
- .5 The General Liability and the Professional Liability insurance policies shall apply to the negligent acts, or omissions of Design Professional, its officers, agents, employees, and for Design Professional's legal responsibility for the negligent acts or omissions of its consultants and anyone directly or indirectly under the control, supervision, or employ of Design Professional or Design Professional's consultants.

## **ARTICLE 11 STATUTORY REQUIREMENTS**

### **11.1 NONDISCRIMINATION**

**11.1.1** In connection with the performance of the Design Professional pursuant to this Agreement, Design Professional shall provide equal treatment to, and shall not willfully discriminate against or allow harassment of any employee or applicant for employment on the basis of: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). Design Professional will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above. Such equal treatment shall apply, but not be limited to the following: employment; upgrade; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Design Professional also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Design Professional will, in all solicitations or advertisements for employees placed by or on behalf of the Design Professional, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship

(within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). For purposes of this provision: (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

## **11.2 PREVAILING WAGE RATES**

**11.2.1** For purposes of this Article 11, the term subcontractor or consultant shall not include suppliers, manufacturers, or distributors.

**11.2.2** Design Professional shall comply and shall ensure that all Subcontractors or Subconsultants comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, and 1775, 1776, 1777.5, and 1777.6 of the State of California Labor Code. Compliance with these sections is required by this Contract. The Work under this Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. References to "Covered Services" hereinafter shall mean services performed pursuant to this Agreement that are covered by the aforementioned provisions as implemented by the State of California Department of Industrial Relations.

**11.2.3** The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Project is to be performed for each craft, classification, or type of worker required to perform the Covered Services hereunder. A schedule of the general prevailing per diem wage rates will be on file at University's principal facility office and will be made available to any interested party upon request. By this reference, such schedule is made part of the Agreement. Design Professional shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Design Professional in the execution of the Covered Services hereunder. Design Professional shall cause all subcontracts or consultant agreements to include the provision that all subcontractors or consultants shall pay not less than the prevailing rates to all workers employed by such subcontractor or consultants in the execution of the Covered Services hereunder. Design Professional shall forfeit to University, as a penalty, not more than \$200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the Covered Services hereunder performed by Design Professional or any subcontractor or consultant. The amount of this penalty shall be determined by the Labor Commissioner pursuant to applicable law. Such forfeiture amounts may be deducted from the Design Professional's fee. Design Professional shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Covered Services hereunder, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker.

## **11.3 PAYROLL RECORDS**

**11.3.1** Design Professional and all subcontractors or consultants shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyworker, apprentice, or other employee employed in connection with the Covered Services hereunder. All payroll records shall be certified as being true and correct by Design Professional or subcontractors or consultants keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of Design Professional on the following basis:

- .1 A certified copy of an employee's payroll records shall be made available for inspection or furnished to such employee or the employee's authorized representative on request.
- .2 A certified copy of all payroll record shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
- .3 A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Design Professional or subcontractors or consultants. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Design Professional awarded the Agreement or performing the Agreement shall not be marked or obliterated.

**11.3.2** Design Professional shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Design Professional shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and Design Professional shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of the Paragraph or with the State of California Labor Code Section 1776, Design Professional shall have 10 days in which to comply following receipt of notice specifying in what respects Design Professional must comply. Should noncompliance still be evident after the 10 day period, Design Professional shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Design Professional's fee.

## **11.4 APPRENTICES**

**11.4.1** Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by Design Professional and subcontractors or consultants as apprentices for the Covered Services hereunder. The

employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code, including but not limited to Section 1777.5. The Design Professional bears responsibility for compliance with this section for all apprenticeable occupations.

**11.4.2** Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only for the Covered Services hereunder in the craft or trade to which the apprentice is indentured.

**11.4.3** When Design Professional or subcontractors or consultants employ workers in any apprenticeship craft or trade for the Covered Services hereunder, Design Professional or subcontractors or consultants shall apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the area of the Project site, for a certificate approving Design Professional or subcontractors or consultants under the apprenticeship standards for the employment and training of apprentices in the area of the Project site. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeyworkers who shall be employed in the craft or trade on the Covered Services hereunder. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 hour of apprentice work for each 5 hours of journeyperson work, except as permitted by law. Design Professional or subcontractors or consultants shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeyworkers fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.

**11.4.4** "Apprenticeship craft or trade", as used in this Paragraph, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

**11.4.5** If Design Professional or subcontractors or consultants employ journeyworkers or apprentices in any apprenticeship craft or trade in the area of the Project site, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the Project site are contributing, Design Professional and subcontractors or consultants shall contribute to the fund or funds in each craft or trade in which they employ journeyworkers or apprentices on the Covered Services hereunder in the same amount or upon the same basis and in the same manner done by the other contractors. Design Professional may include the amount of such contributions in computing its compensation under the Agreement; but if Design Professional fails to do so, it shall not be entitled to any additional compensation therefore from University.

**11.4.6** In the event Design Professional willfully fails to comply with this Paragraph 11.4, it will be considered in violation of the requirements of the Agreement.

**11.4.7** Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Design Professional or subcontractors or consultants of journeyworker trainees who may receive on-the-job training to enable them to achieve journeyworker status in any craft or trade under standards other than those set forth for apprentices.

## **11.5 WORK DAY**

**11.5.1** Design Professional shall not permit any worker providing Covered Services to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Design Professional shall forfeit to University, as a penalty, \$25 for each worker employed in the execution of the Agreement by Design Professional, or any subcontractors or consultant, for each day during which such worker is required or permitted to work providing Covered Services more than 8 hours in any 1 day and 40 hours in any 1 calendar week in violation of the terms of this Paragraph or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the compensation otherwise due under this Agreement. Design Professional and each subcontractor or consultant shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed under this Agreement, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

## **11.6 PATIENT HEALTH INFORMATION**

**11.6.1** Design Professional acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). Design Professional shall immediately notify University's Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. Design Professional will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If Design Professional, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, Design Professional will report such actions immediately to the University's Representative. Design Professional will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. Design Professional will report to University's Representative within five (5) days after Design Professional gives University's Representative notice of the event/action of the steps taken to prevent future occurrences.

**ARTICLE 12**      **EXTENT OF AGREEMENT**

**12.1**      **AUTHORITY OF AGREEMENT**

**12.1.1**      This Agreement represents the entire and integrated agreement between University and Design Professional and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by a written instrument in the form of the Amendment in the Exhibits signed by both University and Design Professional.

**12.2**      **EXHIBITS**

**12.2.1**      The following exhibits are incorporated and made part of this Agreement:

- Exhibit A:      General Conditions of University's Bidding Documents; Specifications, Division 1, General Requirements
- Exhibit B:      Design Professional Rate Schedule for Additional Services
- Exhibit C:      Supplemental Requirements
- Exhibit D:      Not Used
- Exhibit E:      Reimbursement Schedule
- Exhibit F:      Cost Estimate Format
- Exhibit G:      Project Program
- Exhibit H:      University of California Certificate of Insurance
- Exhibit I:      Amendment
- Exhibit J:      Constructability Analysis
- Exhibit K:      Self-Certification
- Exhibit L:      Final Distribution of Contract Dollars
- Exhibit M:      Fee Matrix
- Exhibit N:      Design-Build Matrix

**12.3**      **THIRD-PARTY BENEFICIARIES**

**12.3.1**      Nothing contained in this Agreement is intended to make the CM/Contractor or any construction Subcontractor (regardless of tier), any employee or agent of the CM/Contractor or any Subcontractor or any person, including any consultant of Design Professional (regardless of tier), a third-party beneficiary of any obligations between University and Design Professional.

**12.4**      **SURVIVAL**

**12.4.1**      The provisions of this Agreement which by their nature survive expiration or termination of the Agreement or Final Completion of the Project or the performance of services under this Agreement, including any and all warranties, indemnities, payment obligations, and University's right to audit Design Professional's and Design Professional's consultants' books and records, shall remain in full force and effect after any expiration or termination of the Agreement or Final Completion of the Project or the performance of services under this Agreement.

**ARTICLE 13**      **FEDERAL AND STATE GRANTS**

In the event that a federal or state grant or other federal or state financing is used in the funding of this Project, Design Professional shall permit the funding agency or its designee access to, and grant the funding agency the right to examine, documents covering the services performed under this Agreement. Design Professional shall comply with applicable federal or state agency requirements including, but not limited to, the requirements regarding hours, overtime compensation, nondiscrimination, and contingent fees.

**ARTICLE 14**      **NOTICES**

**14.1**      **UNIVERSITY**

**14.1.1**      Any notice may be served upon University by delivering it, in writing, to University at the address set forth on the last page of this Agreement, or by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to University at the aforementioned or by sending a facsimile of the notice to University's facsimile number set forth on the last page of this Agreement. Notice is effective only if and when it is actually received.

**14.2**      **DESIGN PROFESSIONAL**

**14.2.1**      Any notice may be served upon Design Professional by delivering it, in writing, to Design Professional at the address set forth on the last page of this Agreement, by depositing it in a United States Postal Service deposit box with the postage fully prepaid and with the notice addressed to Design Professional at the aforementioned address, or by sending a facsimile of the notice to Design Professional's facsimile number set forth on the last page of this Agreement. Notice is effective only if and when it is actually received.

**ARTICLE 15**      **SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon University and Design Professional and their respective successors and assigns. Neither the performance of this Agreement, nor any part thereof, nor any monies due or to become due hereunder, may be assigned by Design Professional without the prior written consent and approval of University.

## 15.1 DESIGN PROFESSIONAL'S DEATH OR INCAPACITATION

**15.1.1** If Design Professional transacts business as an individual, upon Design Professional's death or incapacitation, University may, at its option, terminate this Agreement as of the date of such event. If so terminated, neither Design Professional, nor Design Professional's estate shall have any further right to perform hereunder, and University shall pay Design Professional or the estate the compensation payable under Article 5 for any services rendered prior to this termination not theretofore paid. This compensation shall be reduced by the amount of additional costs that will be incurred by University by reason of this termination.

**15.1.2** If there is more than one Design Professional, and any one of them dies or becomes incapacitated, and the others continue to render the services covered herein, University will make payments to those continuing as though there had been no such death or incapacitation; University will not be obliged to take any account of the person who died or became incapacitated, or to make any payment to this person or this person's estate. These provisions shall apply in the event of progressive or simultaneous occasions of death or incapacitation among any group of persons named as Design Professional herein if death or incapacitation befalls the last member of this group before the services under this Agreement are fully performed, then the rights set forth under subparagraph 15.1.1 shall apply.

## ARTICLE 16 - TERMINATION OF AGREEMENT

### 16.1 UNIVERSITY-INITIATED TERMINATION

**16.1.1** If University determines that Design Professional has failed to perform in accordance with the terms and conditions of this Agreement, University may terminate all or part of the Agreement for cause. This termination shall be effective if Design Professional does not cure its failure to perform within 10 days (or more, if authorized in writing by University) after receipt of a notice of intention to terminate from University specifying the failure in performance. If a termination for cause does occur, University will have the right to withhold monies otherwise payable to Design Professional until the Project is completed. If University incurs additional costs, expenses, or other damages due to the failure of Design Professional to properly perform pursuant to the Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to Design Professional upon completion of the Project. If the costs, expenses, or other damages incurred by University exceed the amounts withheld, Design Professional shall be liable to University for the difference.

**16.1.2** University may terminate this Agreement for convenience at any time upon written notice to Design Professional, in which case University will pay Design Professional in full for all services performed and all expenses incurred under this Agreement up to and including the effective date of termination. In ascertaining the services actually rendered to the date of termination, consideration will be given to both completed Work and Work in progress, whether delivered to University or in the possession of Design Professional, and to authorized Reimbursable Expenses. No other compensation will be payable for anticipated profit on unperformed services.

### 16.2 DESIGN PROFESSIONAL-INITIATED TERMINATION

**16.2.1** Design Professional may terminate this Agreement for cause if University fails to cure a material default in performance within a period of 30 days, or such longer period as Design Professional may allow, after receipt from Design Professional of a written termination notice specifying the default in performance. In the event of termination for cause by Design Professional, University will pay Design Professional in accordance with subparagraph 16.1.2.

### 16.3 DOCUMENTS AND MATERIALS

**16.3.1** In the event of Agreement termination by either party for any reason, University reserves the right to receive, and Design Professional shall promptly provide to University, all Drawings, Specifications, models, and other documents, data and materials prepared or generated by Design Professional and its subconsultants for the Project. In the event of termination, any dispute regarding the amount to be paid under Article 16 shall not derogate from the right of University to receive and use any such documents or materials.

## ARTICLE 17 – STATISTICAL REPORTING

**17.1** At the commencement of performance, Design Professional shall complete and submit, and require each subconsultant who performs services under this Agreement to complete and submit, a certification in the form of the Self-Certification in the Exhibits. At the completion of work, Design Professional shall complete and submit a report of the distribution of compensation received under this Agreement in the form of the Final Distribution of Contract Dollars in the Exhibits.

IN WITNESS WHEREOF, UNIVERSITY and DESIGN PROFESSIONAL have executed this Agreement as of the date first written above (see Cover Page).

DESIGN PROFESSIONAL FIRM NAME:

\_\_\_\_\_  
(Printed Name & Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

DESIGN PROFESSIONAL ADDRESS:

DESIGN PROFESSIONAL PHONE NUMBER:

DESIGN PROFESSIONAL FACSIMILE NUMBER:

DESIGN PROFESSIONAL EMPLOYER I.D.  
NUMBER:

UNIVERSITY:

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

\_\_\_\_\_  
(Printed Name & Title)

By: \_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

UNIVERSITY ADDRESS:

UNIVERSITY FACSIMILE NUMBER:

UNIVERSITY PROJECT MANAGER:

**EXHIBIT A**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

**GENERAL CONDITIONS OF UNIVERSITY'S BIDDING DOCUMENTS,**  
**SPECIFICATIONS, DIVISION 1, GENERAL REQUIREMENTS**

**(attached)**

SAMPLE

**EXHIBIT B**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**  
**DESIGN PROFESSIONAL RATE SCHEDULE FOR ADDITIONAL SERVICES**

TITLE

HOURLY RATE

SAMPLE



# **EXHIBIT C** **TO THE** **EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

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## **ARTICLE 1 - BASIC SERVICES - GENERAL**

Design Professional shall provide the following services as Basic Services.

### **1.1 EXAMINATION OF SITE**

**1.1.1** At the beginning of the first applicable design phase, Design Professional and its consultants shall visit the Project site to become familiar with existing site conditions, including the site location and size, utility capacities, and connection options of external utilities. Prior to the completion of the Construction Documents, Design Professional and its consultants shall visit the Project site to coordinate their documents with current site conditions.

**1.1.2** For alteration projects only, visit all relevant areas of the existing buildings to be altered. Include architectural, mechanical, plumbing and electrical (including fire alarm) disciplines. Visually survey the following for consistency with the available documentation, evidence of chronic problems, and coordination with proposed new work:

- .1 Adjacent site perimeter (a minimum of 40 feet from building) for accessible path of travel, fire access, drainage conditions, and distance to adjacent buildings.
- .2 Building exterior (from the ground and roof surface).
- .3 Interior spaces including storage, circulation, mechanical, electrical and telecom rooms.
- .4 Rooftop including penthouses.
- .5 Ceiling spaces above suspended lay-in ceiling tiles at several areas representing standard conditions and in areas with atypical ceiling heights or configurations.
- .6 Concealed spaces accessible via access panel at several areas representing standard conditions and in areas with atypical concentrations of services, specifically at firewalls.

**1.1.2** For alteration projects only, visit all relevant areas of the existing buildings to be altered. Include architectural discipline. Visits to existing buildings for mechanical, plumbing and electrical (including fire alarm) disciplines shall be by CM/Contractor's design-build subcontractors. Visually survey the following for consistency with the available documentation, evidence of chronic problems, and coordination with proposed new work:

- .1 Adjacent site perimeter (a minimum of 40 feet from building) for accessible path of travel, fire access, drainage conditions, and distance to adjacent buildings.
- .2 Building exterior (from the ground and roof surface).
- .3 Interior spaces including storage, circulation, mechanical, electrical and telecom rooms.
- .4 Rooftop including penthouses.
- .5 Ceiling spaces above suspended lay-in ceiling tiles at several areas representing standard conditions and in areas with atypical ceiling heights or configurations.
- .6 Concealed spaces accessible via access panel at several areas representing standard conditions and in areas with atypical concentrations of services, specifically at firewalls.

**1.1.3** Notify University's Designated Administrator of rooms or areas inaccessible due to locked doors, hard-suspended ceilings, heavy furniture and equipment or critical functions. No destructive testing shall be done except by specific written approval.

### **1.2 PROGRAM AND BUDGET REVIEW**

**1.2.1** University will furnish the Project Program to Design Professional at the start of the first applicable design phase. Design Professional shall evaluate the Project's programmatic requirements, promptly call attention to any discrepancy contained therein, and request direction from University's Designated Administrator.

**1.2.2** Prior to completing each applicable design phase submittal, Design Professional shall compare the submittal documents to the programmatic requirements and call to the attention of University's Designated Administrator any discrepancy contained therein and request direction. Design Professional shall be prepared to present program or design adjustment alternatives for University consideration when adjustments are needed to bring the Project scope, Project schedule, and Construction Budget into alignment.

### **1.3 REGULATORY AGENCY REVIEWS AND APPROVALS**

**1.3.1** The design and construction of University projects shall comply with the applicable laws, rules, and regulations of the California Code of Regulations (CCR). Design Professional is responsible for the design's compliance with these laws, rules and regulations. The following CCR titles contain requirements applicable to University construction work:

- Title 8, Industrial Relations
- Title 17, Public Health
- Title 19, Public Safety
- Title 20, Public Utilities and Energy
- Title 21, Public Works
- Title 24, California Building Standards Code
  - Part 1, Building Standards Administrative Code
  - Part 2, California Building Code
  - Part 3, California Electrical Code

Part 4, California Mechanical Code  
Part 5, California Plumbing Code  
Part 6, California Energy Code  
Part 7, California Elevator Safety Construction Code  
Part 8, California Historical Building Code  
Part 9, California Fire Code  
Part 10, California Code for Building Conservation  
Part 11, California Green Building Standards Code  
Part 12, California State Reference Standards Code  
Title 25, Housing and Community Development  
Title 26, Toxics

**1.3.2** Building codes, standards, federal and state legislation, and federal, state, and regional agency regulations affect University projects. In addition to the CCR titles listed above, University construction work shall also comply with the following Codes or Acts. In general, in the case of conflicts between codes, the more stringent conditions shall apply. Confirm particular instances with University's Representative.

National Fire Protection Association (NFPA)  
Federal Occupational Safety and Health Act of 1970 (OSHA)  
Accessibility Guidelines for the Americans with Disabilities Act, Title 24 ADAAG (ADA)  
California Coastal Commission Regulations

**1.3.3** University is not subject to the building ordinances and zoning requirements of local political jurisdictions; a University building permit is required for on-campus projects. Off-campus projects are required to comply with all applicable local building ordinances and zoning requirements. University is not required to obtain building permits from local jurisdictions for construction on real estate owned or controlled by University. However, the design and construction of utility connections and fire-protection systems may require liaison with local jurisdictions. This liaison shall be coordinated only through University's Designated Administrator. Construction or encroachment upon city- or county-owned property is subject to local codes and permit requirements.

**1.3.4** University is its own enforcement agency for all code requirements except those regarding fire code, access compliance, and medical facilities. For these code requirements, University projects are subject to plan approval and enforcement authority by the state agencies listed below. Design Professional shall obtain reviews from, submit applications to, and obtain approvals/permits from these agencies. University's Designated Administrator will arrange to pay application fees that may be required.

.1	Fire Code	Office of the State Fire Marshal (SFM).
.2	Medical Facilities	Health Care Access and Information (HCAI)
.3	Access Compliance	California Department of General Services, Division of the State Architect (State funded projects) Campus Architect (Non-state funded projects.)

**1.3.5** By agreement with the SFM, the effective code date for new and remodeled University building projects is the edition of the CCR, Title 24, in effect at the time of the first submittal of Preliminary Drawings as defined in the State Administrative Manual. The date of receipt of this first submittal is the official "date of record" for the Project. The edition of CCR, Title 24, in effect on that date will be applied for the duration of the Project. In the event Preliminary Drawings are not submitted to the SFM regional office prior to submission of Construction Documents (defined as Working Drawings and Specifications), the edition of the CCR, Title 24, in effect on the date of receipt of the Construction Documents by the SFM regional office will apply.

**1.3.6** It is recommended that preliminary State Fire Marshal (SFM) or the local designee, and Campus Building Official reviews occur during Schematic Design (if applicable) and Design Development (if applicable). Review and approval by the SFM and Campus Building Official are required at Construction Documents completion. Design Professional shall arrange all reviews with Campus Building Official for access compliance and with SFM for fire safety and code compliance. Design Professional shall incorporate corrections required by Campus Building Official and SFM into the Contract Documents before advertisement for bid.

**1.3.7** Design Professional shall assist University in making applications to, and obtain approvals/permits from the Southern California Air Quality Management District.

**1.3.8** Design Professional shall incorporate the following University policies and Campus Standards (current as of the execution date of this Agreement) where applicable to their work:

.1	University of California Seismic Safety Policy including revisions.
.2	University of California Policy on Sustainable Practices.
.3	All UCLA Campus Standards (refer to: <a href="http://www.capitalprograms.ucla.edu/Contracts/UCLACampusStandards">http://www.capitalprograms.ucla.edu/Contracts/UCLACampusStandards</a> ).

**1.3.9** Not Used.

**1.3.10** For major State-funded projects, approval of the completed Design Development documents by the State Public Works Board is required, as well as State Department of Finance approval of the completed Construction Documents.

#### 1.4 UNIVERSITY REVIEWS AND APPROVALS

1.4.1 Each design phase is subject to review and approval by University. Project items to be reviewed include design and cost, site, seismic safety, and environmental impact.

1.4.2 Other University personnel, external consultants, or public agencies may also review Design Professional's submittals at University's discretion or as required by applicable regulations. These reviews shall not relieve Design Professional of responsibility for errors and omissions in Design Professional's work. Design Professional shall cooperate with the reviewers and participate in the reviews. Meetings to discuss University policy and legal requirements are required.

1.4.3 University's review of Drawings and related documents at the various stages of project development is intended to determine whether:

- .1 Design Professional has completed the work of that phase,
- .2 Design Professional's design satisfies University's programmatic needs,
- .3 The Project design is within the stipulated scope and Project budget, and
- .4 The Project is in conformance with University's administrative policies and procedures.

1.4.4 University will review the submitted drawings at all stages and provide written comments.

1.4.5 University will review the submitted specifications at three stages and provide written comments. The first Construction Documents submittal review will cover general issues (e.g., format and Division 1 references). The second Construction Documents submittal review covers all sections for content, consistency and completeness. The final Construction Documents review is the final review for corrections and typographical mistakes.

1.4.6 Design Professional shall respond in writing (item by item) to University's review comments using University's format.

- .1 Electronic Design Phase Deliverables: Bluebeam software will be used for all University review and "back check" sessions for Drawings and Specifications at each design phase milestone. Design Professional shall be responsible to coordinate University review comments and compile and coordinate responses with their consultants consistent with the Project schedule milestones using Bluebeam software. Refer to paragraphs 1.8.7 and 1.9.3 below for specific requirements.

1.4.7 SEISMIC REVIEW: This Project is subject to an independent seismic/structural review conducted by University and at University's expense. Design Professional shall furnish drawings and other items as necessary to describe the Project design. A review of non-structural building elements shall also be included. The review will be initiated early, preferably during Schematic Design, so that it can be performed in conjunction with the independent design and cost/value control review processes, where applicable. The review will be continued at appropriate times during the design process. Drawings and calculations will be reviewed for conformance to the most current applicable seismic design code requirements. Design Professional shall attend meetings as necessary to resolve all seismic issues.

1.4.8 Not Used.

1.4.9 ARCHITECTURAL DESIGN REVIEW: This Project is subject to an independent architectural design review conducted by University and at University's expense. The design review will be performed early in the preparation of design and focus on, but not be limited to, the compatibility of the design with its setting, and the appropriateness of the design to its functional program and the Project budget. Design Professional shall cooperate with this design review. As part of the review, Design Professional shall present the current status of the design with drawings and other items as necessary to describe the Project's Design.

#### 1.5 REGENTS' (OR REGENTS' DELEGATED AUTHORITY'S) DESIGN APPROVAL

1.5.1 This Project requires design review by the Regents of University of California (or the Regents' Delegated Authority). Design Professional shall furnish presentation drawings, sustainable design information, and other support materials for use in said design review process. Drawings and written documents for presentations to said parties shall be simple, clear and concise.

1.5.2 Furnish these materials in accordance with the Project schedule provided by University. Design Professional shall attend meetings with representatives of University regarding said presentation materials.

1.5.3 Should the Regents (or the Regents' Delegated Authority) fail to approve the design or aspects of the design, Design Professional shall, at its own expense, revise the design unless Design Professional has been given prior written approval from University to proceed with the Design Development phase, in which case the revision of the design shall be an Additional Service in accordance with Article 7.

#### 1.6 CONSTRUCTION COST/VALUE CONTROL

1.6.1 Throughout the Project, Design Professional shall keep the Project's estimated construction cost within the Construction Budget and is responsible to periodically submit a current Estimated Project Construction Cost to verify that this is done. The following three processes shall be used during the Project for Construction Cost/Value Control (CVC) with the Cost Reduction process only used if the previous three are unsuccessful:

- .1 Cost Choices (CC) - Program and design choices that drive the project cost begin at programming and become more focused. Choosing what can be afforded within the budget is the first step. At the first estimate, consideration of cost choices begins and continues as the design progresses.
- .2 Life Cycle Cost Analysis (LCCA) - This identifies alternative materials and systems to evaluate by preparing an economic assessment of all significant costs of ownership over the economic life of each alternative including:
  - a. The projected initial cost of the system
  - b. Projected yearly operational and maintenance costs
  - c. Projected estimated replacement cost
  - d. Projected estimated life expectancy
  - e. Anticipated levels of performanceLCCA shall be conducted for a minimum of one alternative mechanical and one alternative lighting system. With respect to design alternatives specifically in support of the Energy Efficiency program, Design Professional shall assist with providing cost and performance information for approximately 10 energy conservation measures or combination of measures. Contact University's Representative for study life, utility rates, discount factors, escalation factors and benefit-to-infrastructure values. The results shall be presented in a spreadsheet format that shall identify both simple payback and present value of the evaluated options.
- .3 Value Engineering (VE) - This is when one design feature can be achieved in a different manner for the same or lower cost without compromising the aesthetic or functional value. Value engineering should also start early and run throughout the design phases. Life cycle costs should be considered along with capital costs.
- .4 Cost Reduction (CR) - This requires removing something desired from the Project. This is initiated later in the design process if the CC, LCCA and VE efforts were not successful in maintaining the Project within budget.

**1.6.2** This Project is subject to independent cost estimates conducted by an estimator designated by University and at University's expense. Design Professional shall furnish {TBD} of the current Drawings and Specifications at the end of Schematic Design (if applicable), at the end of Design Development (if applicable), and at the end of both 50% and 100% completion of Construction Documents. Design Professional shall be available to answer the estimator's questions regarding the design and to attend meetings as necessary with the estimator to reconcile Design Professional's estimate with the independent estimate. In the event that the independent estimate and Design Professional's estimate cannot be reconciled, Design Professional's estimate shall prevail as the Estimated Project Construction Cost.

**1.6.3** Design Professional shall fully participate in University's CVC program. CVC workshops shall occur after the Schematic Design phase submittals, the Design Development phase submittal, and the first Construction Documents phase submittal. CVC workshops shall be scheduled by agreement between Design Professional and University. Agenda shall include at a minimum:

- .1 Design and Sustainability Review
- .2 Alternative Technical Solutions
- .3 Cost Evaluations
- .4 Evaluation of Alternatives
- .5 Priorities and Trade-offs (if necessary)

**1.6.4** Participants, in addition to Design Professional and its consultants, shall include professional peers experienced with building type (selected by University and at University's expense); University's professional staff, including user representatives; and others deemed appropriate by University. Design Professional and its consultants shall present and discuss the design as required by the agenda of each meeting.

**1.6.5** After each CVC session, Design Professional shall evaluate the results of the session with University and shall implement changes in the design as mutually agreed upon or as directed by University.

**1.6.6** If the Estimated Project Construction Cost at the Construction Documents phase exceeds the Construction Budget, University may, at its discretion, (1) give written approval of an increase in the Construction Budget, (2) authorize the solicitation of bids (reserving its rights under Agreement subparagraph 2.5.2), or (3) require Design Professional, at Design Professional's expense, to revise the Project in cooperation with University so as to reduce the Estimated Project Construction Cost to match the Construction Budget. Modifications proposed by Design Professional shall require University approval prior to incorporation into the revised documents.

## **1.7 QUALITY ASSURANCE**

**1.7.1** Design Professional shall demonstrate an effective internal Quality Assurance (QA) program that results in well-coordinated and consistent submittal documents. University's preparation guidelines for drawings and specifications shall be incorporated into Design Professional's QA program.

**1.7.2** University may perform or may choose to have an outside consulting firm perform a quality assurance review including plan check and/or constructability analysis on the submitted documents. Design Professional shall review the written comments produced by this review and respond to the comments (item by item) in writing. Design Professional shall attend meetings as necessary to resolve issues.

## **1.8 DRAWING SUBMITTAL REQUIREMENTS**

**1.8.1** Design Professional shall submit one set hardcopy and two sets of executable digital files on disk, one formatted in AutoCAD.dwg, the other as PDF. When required, hardcopies of submittals shall be on bond paper. Final Record Drawings shall be furnished as specified in Article 6.13 herein.

**1.8.2** Each copy and each disk shall be fully labeled with the Project name, Project number, date, names and contact information for the entity(ies) responsible for preparation and submittal of the files and disks, and the sequence number of the disk in the set. Files may be submitted compressed, but the decompression utility used (executable preferred) shall be fully described with directions included on the transmittal as well as in digital form. Design Professional shall provide an index of digital file drawings and their associated XREF. Unused layers and blocks shall be purged from the drawing file. Directions for restoring the directory structure shall be included, and all data necessary to plot the files, such as PCP, PNP, and CTB files, layering, pens, fonts, and color information shall be provided. Design Professional shall "bind" all plot sheets. Digital file drawings (in AutoCAD, Revit or equal approved in advance by University's Designated Administrator) shall be identical to the required hardcopy submittals.

**1.8.3** The digital file name shall match the drawing number with brief description. The complexity of the files/folders shall be matched to the scale of the Project.

**1.8.4** Submittal of the digital drawing files shall be considered a legal submittal of any fonts, menus, line types, symbols (blocks or entities), and any proprietary information incorporated into the drawings. If symbols (blocks or entities) or other information is copyrighted, University will have the right to use and to distribute all such information at no cost or liability. Copyright language shall not be included on the Drawings.

**1.8.5** Design Professional shall coordinate with University's Designated Administrator to insure room numbering in accordance with University requirements.

**1.8.6** In addition to the standard submittal format requirements, presentation graphics materials shall be submitted to University as digital files in the .PDF format.

**1.8.7** Drawing Preparation Guidelines containing more detailed requirements will be provided to Design Professional at the beginning of the first applicable design phase.

- .1 Design Professional and its consultants shall have access to Bluebeam Vu software. Design Phase Deliverable Submissions shall meet the below-listed criteria:
  - .1 Adobe PDF Submission Conventions for Drawings:
    - .1 Provide Optical Character Recognition (OCR) readable files with TrueType fonts and no vector text.
    - .2 No encrypted or password security protected files.
    - .3 Drawing file sizes shall be no larger than ARCH D. Drawing file sizes shall be consistent across disciplines.
    - .4 Drawing sets containing AutoCAD SHX fonts shall be mapped to a TrueType font. Refer to Instructions on Autodesk support link: <https://knowledge.autodesk.com/support/revit-products/learn-explore/caas/CloudHelp/cloudhelp/2016/ENU/Revit-Model/files/GUID-87119589-ADE4-41AD-A796-3EB3C1DDDA82-htm.html>.
    - .5 Drawings: A single combined pdf file including all design disciplines.
      - a. Each Drawing Sheet shall be bookmarked by Sheet Number, then Sheet Title (e.g. General Information, Architectural, Landscape).
      - b. Each bookmark shall include the Drawing Sheet Number and Drawing Title (e.g. G0.01 – Sheet Index [no dashes or # signs in Sheet Number]).
    - .6 No characters, ! @ # \$ % ^ & \* ( ) are allowed in filename and bookmark titles.
    - .7 All Drawing Title Blocks shall be formatted consistently with Sheet Number and Sheet Title in the same location in the Title Blocks.
    - .8 Files will reside in SharePoint, so titles shall be compact. Use the following naming conventions:
      - a. DATE (YYMMDD) – PHASE (\*PD, SD, DD, 50CD, 100CD, BID) – DOCUMENT (SPECS, DRAWGS, BOD, CALCS) – PROJECT ACRONYM (6 LETTERS MAX).
      - b. Example: 170331-DD-DRWGS-CHSNPI.pdf

## **1.9 SPECIFICATION SUBMITTAL REQUIREMENTS**

**1.9.1** Specifications, in CSI format, shall consist of two sets of executable digital files on CD-ROM (one formatted in Microsoft Word [version as approved by University's Designated Administrator], the other as an Adobe .PDF). When required, hardcopies of submittals shall be on bond paper. Each specification section shall be saved as a document file named with the corresponding Master format number (e.g., 260110.docx).

**1.9.2** Design Professional shall use the format and terminology standards approved by University. Specifications shall be:

- .1 Complete, coordinated and consistent with each other and the drawings.
- .2 Coordinated with University's General Conditions and General Requirements.
- .3 Written for a two-party contract between University and CM/Contractor.
- .4 Written to describe University's Representative as University's acting functionary.
- .5 Written with open specifications for material and equipment except in specifically permitted exceptions.

**1.9.3** Specification Preparation Guidelines are as follows:

- .1 Design Professional and its consultants shall have access to Bluebeam Vu software. Design Phase Deliverable Submissions shall meet the below-listed criteria:
  - .1 Adobe PDF Submission Conventions for Specifications:
    - .1 Provide Optical Character Recognition (OCR) readable files. Text shall be selectable.
    - .2 No encrypted or password security protected files.
    - .3 Specifications: A single combined pdf file including all design disciplines.
      - a. Each Specification Division shall be bookmarked as in the Table of Contents (e.g. 033000\_Architectural Cast In Place Concrete).
    - .4 No characters, ! @ # \$ % ^ & \* ( ), are allowed in filenames and bookmark titles.
    - .5 Files will reside in SharePoint, so titles shall be compact. Use the following naming convention:
      - a. DATE (YYMMDD) – PHASE (\*PD, SD, DD, 50CD, 100CD, BID) – DOCUMENT (SPECS, DRAWGS, BOD, CALCS) – PROJECT ACRONYM (6 LETTERS MAX)  
Example: 170331-DD-SPECS-CHSNPI.pdf
  - .2 Microsoft Word Submission Conventions for Specifications:
    - .1 No encrypted or password security protected files.
    - .2 No characters, ! @ # \$ % ^ & \* ( ), are allowed in filenames.
    - .3 Files will reside in SharePoint, so titles shall be compact.
    - .4 Each specification section shall be saved as a Microsoft Word document file named with the corresponding Master format number (e.g., 260110.docx).

## 1.10 DOCUMENT SUBMITTAL TIMING

### 1.10.1 Not Used.

**1.10.2** Design Professional shall submit the required documents for each applicable design phase in two parts and approximately two weeks apart, unless otherwise stipulated by University's Designated Administrator. The first part of the submittal shall include Drawings and Specifications, Design and System Narratives, LEED™ Project Checklist referenced in Article 1.13 herein, and similar items. The second part of the submittal shall include items such as Special Inspections and Testing Requirements, Calculations, Sole Source List, Material Board, and the Energy Model and related information.

## 1.11 CONSTRUCTION PHASING

**1.11.1** Construction phasing, if applicable, will require review and approval by University's Designated Administrator. Design Professional shall clearly show construction phasing requirements on the drawings and also describe them in the specifications. Design Professional shall also provide a construction phasing schedule in bar chart, or in Critical Path Method (CPM) form as an additional service.

## 1.12 PARTNERING - NOT USED.

## 1.13 SUSTAINABLE PRACTICES POLICY

### 1.13.1 Design Professional shall:

- .1 Meet the goal set by University to outperform the required provisions of Title 24 California Energy Code efficiency requirements by at least 20% or meet the applicable whole-building energy performance targets in the UC Policy on Sustainable Practices. Where possible within the constraints of program needs and standard budget parameters, projects shall outperform Title 24 by 30% or achieve the more stringent whole-building energy performance stretch targets. Coordinate with University's Designated Administrator to determine the project-specific whole-building energy performance targets under UC Policy.
  - .1 For Acute Care Facilities Only: Coordinate with University's Designated Administrator to comply with current energy efficiency standards developed by campus and medical center to satisfy the UC Policy on Sustainable Practices.
- .2 Coordinate with University's Designated Administrator to determine the applicable project LEED™ requirements and substantiation. Include LEED™ requirements in specifications submittals to ensure the achievement of points and credits identified for target ranking. Projects shall pursue the highest feasible LEED™ project ranking as determined by the University's Designated Administrator. Projects are encouraged to achieve "Gold" or "Platinum" rankings. Furnish cost information and strategies to support these options. Manage LEED™ process throughout design and construction phases according to project scope and prepare design and construction submittals to Green Building Certification Institute (GBCI) for review and certification.
  - .1 For New Construction Projects: Register the project with the GBCI and manage the project's LEED™ online website in coordination with the University's Designated Administrator. Design and engineer the project to achieve the target rating under the most current USGBC LEED™ for Building Design and Construction (BD+C) rating system at time of registration. In no case shall the project be designed to achieve less than a "Silver" ranking. Achieve at least two points within the available credits in the LEED™ BD+C Water Efficiency category.
  - .2 For Renovation or Interiors Projects Valued Over \$5 Million: Register the project with the GBCI and manage the project's LEED™ online website in coordination with the University's Designated Administrator. Design and engineer the project to achieve the target rating under the most current USGBC



- LEED™ for Interior Design and Construction (ID+C) rating system at time of registration. In no case shall the project be designed to achieve less than a “Silver” ranking.
- .3 For Renovation or Interiors Projects That Do Not Satisfy the LEED™ “Minimum Program Requirements” or are Valued Under \$5 Million: Design and engineer the project to incorporate sustainable measures consistent with current campus policies and standards. Project characteristics shall not contradict previously established campus-based LEED™ credits awarded to other projects. Periodically review sustainable measures with University's Designated Administrator and, if requested, furnish cost information for optional strategies or features that would achieve LEED™ project rankings.
  - .4 For Acute Care Facilities Only: Coordinate with University's Designated Administrator to comply with current Green Building standards developed by campus and medical center to advance UC Sustainable Practices Policy goals. Compliance strategy shall reference standards of the current LEED™ for Healthcare Rating System.
  - .5 All projects, whether or not pursuing LEED™ certification, must demonstrate compliance with Mandatory Measures under the CalGreen Building Code, using University's designated form. Applicable LEED™ project documentation and actions may be used to demonstrate compliance.
- .3 Savings-by-Design: Design Professional shall enroll in and participate in the California Savings-by-Design Program, if applicable, beginning during the first design phase. Design Professional shall attend meetings with representatives of the program to identify energy conservation measures or combinations of measures for analysis. Design Professional shall furnish to University estimated construction costs, estimated maintenance costs, estimated equipment life spans and technical information.
  - .4 For GBCI-Registered Projects: Prepare and submit both a hard copy and an electronic copy of the current LEED™ Project Checklist as provided on the GBCI website, supporting substantiation for each point for which credit is sought, and completed letter templates to be signed by the University and others. The LEED™ Project Checklist shall be updated and submitted at the end of each Design Phase (Schematic, Design Development, Construction Document, as applicable). The completed applicable checklist, letter templates and required documentation shall be submitted for review in tabbed binder form at the end of the Construction Documents Phase.
  - .5 For Projects Containing Laboratories: Comply with all prerequisites of the Labs21 program sponsored by the U.S. Environmental Protection Agency and the U.S. Department of Energy. Laboratory projects shall furnish cost information and strategies to meet or exceed performance thresholds for as many Labs21 Environmental Performance Criteria as feasible, as determined by the University's Designated Administrator.

#### 1.14 MEETINGS

1.14.1 Design Professional shall participate in regular meetings at the Facility through each phase of the Project for the purpose of explaining the Project design, reviewing the Project progress, discussing University policy and legal requirements.

#### 1.15 BUILDING INFORMATION MODEL (BIM)

1.15.1 In addition to the submittal requirements in paragraph 1.8, Design Professional shall submit digital files of the Building Information Model for use by University and CM/Contractor. Format of the Model shall be compatible with Autodesk Revit or equal and importable into Navisworks. Design Professional's Model will be used as a reference by CM/Contractor as the CM prepares the detailed construction and fabrication level Building Information Model. Model will not be used as a Contract Document and will not override any of the provisions in drawings and specifications provided by Design Professional.

### ARTICLE 2 - BASIC SERVICES - SCHEMATIC DESIGN PHASE

#### 2.1 GENERAL

2.1.1 Not Used.

2.1.2 Design Professional shall provide a written preliminary evaluation of the Project Program and the Construction Budget requirements each in terms of the other.

2.1.3 After consultation with University's Designated Administrator, Design Professional shall conduct a Schematic Design kick-off workshop to discuss the requirements and goals described in the Project Program.

2.1.4 Shortly after the Schematic Design kick-off workshop, conduct an Integrated Design workshop addressing the Project Program and the following requirements with all of Design Professional's Consultants, a representative of Savings-by-Design Program, as applicable, and University to:

- .1 Review the findings of the site analysis, program analysis and preliminary engineering analysis.
- .2 Discuss challenges and opportunities inherent in the Project.
- .3 Review design priorities.
- .4 Review the Project for alignment with Green Building design requirements (refer to Article 1.13 herein).

2.1.5 Early in the Schematic Design phase, develop and present to University three alternative site and building designs that meet the program needs. Provide graphics or physical study models as appropriate to fully describe the designs. These materials shall be delivered to University for review and shall include digital files of graphic presentation materials.

**2.1.6** For each of the three alternative designs, update the Detailed Project Program cost model by changing, adding and/or deleting cost items, adjusting control quantities, and submitting these updates with the designs.

**2.1.7** Not Used.

**2.1.8** Design Professional shall prepare Schematic Design studies consistent with and incorporating the Project Program requirements, including site plans (when applicable), floor plans, elevations, sections, and other drawings, sketches, or graphic materials needed to describe the Project in three dimensions. Schematic studies shall be consistent with the construction budget and Project Schedule and shall be revised until approved by University as acceptable.

## **2.2 CODE ANALYSIS**

**2.2.1** Design Professional shall prepare and submit to University an outline of applicable provisions of building codes which apply to this Project. The outline shall include a written report and diagrammatic drawings which delineate the design criteria (e.g., exit paths, travel distances, required exits, rated walls, rated corridors, building occupancy, construction type, and fire zones). This graphic documentation of the design criteria shall be updated with each subsequent submittal.

## **2.3 ESTIMATED PROJECT CONSTRUCTION COST**

**2.3.1** Design Professional shall update the Project Program Cost Model by changing, adding and/or deleting cost items and adjusting control quantities.

**2.3.2** Design Professional shall submit an Estimated Project Construction Cost based on the documents submitted in this phase using an estimate format approved by University's Designated Administrator. Design Professional shall compare the estimate with the Construction Budget and bring any unusual cost items to the attention of University's Designated Administrator.

## **2.4 AREA TABULATION**

**2.4.1** Design Professional shall develop a space-by-space comparison of the Schematic Design documents' assignable square feet (ASF) with the Project program's ASF. Design Professional shall provide overall gross square feet (OGSF) and, for projects exceeding \$5 million, shall provide a tabulation of rentable square footage (RSF) according to specifications of the Building Owners and Managers Association. These tabulations shall be made by floor and program component, and shall include totals for the building or renovated area as a whole. Design Professional shall calculate the efficiency ratios (ASF/GSF), and shall submit the floor plans in electronic format to the UCLA Space Inventory System for room numbering and room naming convention.

## **2.5 DESIGN INTENT NARRATIVE**

**2.5.1** Design Professional shall provide a narrative description of the Project's site, architectural design, and building organizational concept. Design Professional shall set forth the design concepts and important features of the Project, including the LEED™ Project Checklist referenced in Article 1.13 above. A preliminary building energy model identifying the estimated scale of the various load components and identifying potential energy and resource conservation options considering life cycle costs shall be provided.

**2.5.2** Not Used.

**2.5.3** Design Professional shall describe the type of construction, including the wall, ceiling, roofing, and waterproofing systems; exterior and interior finishes; and doors, windows, and casework systems. The finishes shall be identified at a gross level, indicating the type and quality level. Fire safety items, including all related mechanical and electrical devices, shall be described as required by the State Fire Marshal for the intended occupancy of the building.

**2.5.4** Design Professional shall submit documentation supporting the design criteria for the structural (including structural loading), HVAC, plumbing, electrical, lighting and communication systems; and other specialized building systems.

**2.5.5** Design Professional shall describe the recommended structural system and the basis for recommending this system over others. Included shall be strategies for dealing with special conditions, subsurface conditions, and substructure.

**2.5.6** Design Professional shall provide the basis of design and an analysis of the principles of operation of the HVAC, plumbing and electrical systems and their controls. Included shall be the schematic diagrams and written material thoroughly describing the proposed systems and equipment.

**2.5.7** Design Professional shall describe the mechanical (plumbing and HVAC systems) conceptually including controls, ducts, filtration, and piping. A written analysis of the calculated loads of proposed new HVAC systems and plumbing systems, the design demands of the Project, and the capacity of the existing systems, if any, shall be provided. Design Professional shall identify the capacity of existing systems if any, based on an examination of the Facility's Record Drawings, an inspection of the existing system, and test reports.

**2.5.8** Design Professional shall describe special systems including special laboratory control systems, energy management systems, fume hood and other special exhaust systems, and similar items.

**2.5.9** Design Professional shall describe the proposed new electrical systems for the power, lighting, communication, fire alarm, and security systems. Indicated in sufficient detail shall be the proposed power system voltages including the main points of connection to

existing systems, electrical service voltage, and number of feeders. Items to be served by emergency power shall be listed and Design Professional shall describe design considerations for special areas.

**2.5.10** All of the above descriptions shall include applicable code references where not covered by the code outline.

## **2.6 MATERIAL BOARD**

**2.6.1** Design Professional shall provide a display board with mounted samples of the actual exterior materials proposed. The board shall be 20"H x 30" W and weigh no more than 30 pounds. The material samples shall be removable from the board without disassembling the board. The area of each sample shall roughly correspond to the proportion of that material to the other materials in the proposed building.

## **2.7 CIVIL DRAWINGS**

**2.7.1** Site Demolition Plan shall show existing structures and utilities to be removed by Contractor or by others.

**2.7.2** Grading Plan shall show existing and proposed contours at one foot intervals.

**2.7.3** Utility Plan shall show:

- .1 All existing utilities and underground structures within the Project site based on both the information provided by University and on Design Professional's field investigation.
- .2 Off-site utilities in the vicinity required for this Project, and all points of connection.
- .3 Proposed points of connection to the existing Facility utility systems including the proposed method of service and routing for electrical power, chilled water, steam, domestic water, fire water, utility water, sanitary sewer, storm drain, natural gas, telephone, and fire alarm systems. Exterior pad-mounted transformers and site distribution shall be included.

## **2.8 LANDSCAPE DRAWINGS**

**2.8.1** Landscape Design Plan shall show conceptual hardscape and planting.

## **2.9 ARCHITECTURAL DRAWINGS**

**2.9.1** Site Plan shall include:

- .1 Overall dimensions of the proposed new building(s), wings, etc.
- .2 Existing structures and streets (with names) within a radius of 300 feet of the Project site perimeter with the distances from each proposed new building exterior walls to existing buildings, property lines (setbacks), and roadways.
- .3 Major new exterior elements and, for alterations and additions, all existing exterior elements that will remain in place. These elements shall include, but are not limited to streets, service drives, easements, loading docks, parking areas (cars and bicycle), paved areas, walks, stairs, ramps, pools, retaining walls, fences, fire hydrants, recycling, and trash container locations and equipment.
- .4 Elevations of building entrances and the placement of ramps and other provisions for disabled access to the site and building. Also depicted shall be the parking area and drop-off location nearest the building, and the routes and travel distances to all building entrances.
- .5 Construction site area defined by the boundary fence line including access gates for construction workers, construction vehicles and emergency response vehicles. Identify existing pedestrian paths and vehicular roads for loading, emergency response and facilities vehicles that are adjacent to the site. Indicate an area for construction site trailers.

**2.9.2** Site Sections shall be included as needed to explain changes in levels within the proposed building as related to the site.

**2.9.3** Floor Plans shall include:

- .1 Locations, room names, sizes (in assignable square feet), and space numbers for all programmed spaces and required gross area spaces including entrances, lobbies, corridors, stairs, elevators, toilet rooms, janitors' closets, storage and mechanical/electrical equipment rooms.
- .2 Overall dimensions of major elements of the building(s).
- .3 Building elements such as walls, columns, doors, windows, openings, and major built-in equipment.
- .4 Means for complying with applicable disabled access codes.
- .5 Floor plans for additions or alterations to existing buildings shall show the existing floor plan and indicate the existing space usages and any proposed changes.

**2.9.4** Demolition Plan (whenever a Project requires the demolition of a building or portions thereof). Design Professional shall differentiate between new work (walls, doors, finishes, and so on), existing work to be removed, and existing work to remain in place.

**2.9.5** Sections shall be provided as needed to explain structure and unusual design features, and shall show existing and proposed grades.

**2.9.6** Elevations shall include all elevations of the building, floor-to-floor dimensions, the overall building height, and elevations of existing neighboring buildings.

**2.9.7** Presentation Materials as required for presentation to the Regents (or the Regents Delegated Authority). Design Professional shall verify all requirements for presentation materials with University's Representative. These may include:

- .1 Colored presentation-quality drawings of all floor plans, elevations (all sides), sections, site plan, and other drawings, as appropriate.
- .2 When requested and using digital reproduction, photograph the presentation drawings and samples for those projects requiring design review meetings and Regents (or Regents' Delegated Authority) presentations. Return the presentation drawings to University after the slides are prepared.
- .3 Two rendered perspective drawings, in color and large enough to convey the overall design. A normal, "eye-level" view of the Project is preferred. In some instances, a "birds-eye" view will be needed to convey the full scope of the Project. The landscape features of the site development shall be shown in a realistic manner, but shall not obscure the structure.

## **2.10 STRUCTURAL DRAWINGS**

**2.10.1** Design Professional shall provide a detailed written description of the recommended structural system and the basis for recommending this system over other approaches. Design Professional shall provide a conceptual structural framing plan of a typical floor that indicates the grid system (dimensioned), columns, shear walls, and related items.

## **2.11 PLUMBING DRAWINGS**

**2.11.1** Design Professional shall provide a written analysis of the calculated load demands of proposed new plumbing systems, the design demands of the Project, and the capacity of the existing plumbing systems, if any. Indicate the proposed points of connection to the existing Facility utility systems. Refer to the site plan requirements outlined in subparagraph 2.9.1 herein.

## **2.12 HVAC DRAWINGS**

**2.12.1** Design Professional shall:

- .1 Evaluate a minimum of two alternative air systems that are in compliance with energy requirements in the California Code of Regulations, Title 24, Part 6, California Energy Code and Part 4, California Mechanical Code.
- .2 Provide a written analysis of the calculated loads of proposed new HVAC systems.
- .3 Provide a conceptual single-line mechanical diagram showing major ducts and equipment. The sizes and locations of major equipment items including cooling towers, chillers, pumps, fans, air-handling units, compressors, and related items, shall be identified.
- .4 Provide a life-cycle cost analysis for each HVAC system. This analysis shall include capital cost, operating costs, maintenance costs, and anticipated level of performance, with comparisons made between the proposed system and alternative systems. Design Professional shall provide a simple payback schedule.
- .5 Provide a description of the proposed fume hood ducting and exhaust system.

## **2.13 ELECTRICAL DRAWINGS**

**2.13.1** Design Professional shall provide a conceptual single-line diagram showing permanent as well as temporary points of connection to high-voltage, telephone, and signal systems. Included shall be the:

- .1 Method of service (Facility or local utility) showing primary service to loop switch.
- .2 Major transformers and transformer substations.
- .3 Secondary service to switchboards, motor control centers, distribution boards and panel boards for power and lighting.
- .4 Major components of the emergency power system.

## **2.14 GREEN BUILDING DESIGN**

**2.14.1** Refer to paragraph 1.13 herein.

## **2.15 DESIGN-BUILD COORDINATION**

**2.15.1** Prior to the 100% Schematic Design Documents phase submittal, Design Professional and its consultants shall review University's Bidding Documents for Project requirements and recommend any changes needed to make them applicable to the Project. Design Professional shall include, with the 100% Schematic Design phase submittal, a single marked-up set of University's Standard Specification, Division 1, General Requirements, showing the recommended changes, if any.

**2.15.2** The Drawings and Specifications shall be consistent with University's General Conditions and the Division 1 tailored for the Project, as required by Paragraph 4.1.2 herein.

2.15.3 Refer to Exhibit N for Design-Build Matrix for Design Professional and CM/Contractor Design-Build Subcontractor(s) document coordination.

### **ARTICLE 3 - BASIC SERVICES - DESIGN DEVELOPMENT PHASE**

#### **3.1 GENERAL**

3.1.1 The first formal submittal by the CM/Contractor's Design-Build MEP Subcontractors shall be reviewed by Design Professional's MEP consultants.

3.1.2 Design Professional's MEP engineers will coordinate and review all submittals with the Commissioning Agent.

3.1.2 Upon 100% completion of Design Development documents, Design Professional shall submit updated versions of all Schematic Design phase submittal items as well as the additional items described below. The Design Development documents shall be consistent with the Project Program (including the gross and assignable floor areas), the Construction Budget and the Project Schedule.

#### **3.2 CODE ANALYSIS**

3.2.1 Design Professional shall update the code outline.

#### **3.3 ESTIMATED PROJECT CONSTRUCTION COST**

3.3.1 Design Professional shall provide an updated estimate as part of the Design Development documents submittal. Design Professional shall use the same estimation method and building component format as used for Schematic Design Phase estimate. The estimate shall be sufficiently detailed so that all construction components are considered, and quantities of materials and unit costs are provided. In addition, the estimate shall include unit costs per gross square foot for all major items of the Work, broken down by building component. Design Professional shall provide a subtotal for each component and compare this estimate with the approved Construction Budget. Bring all unusual cost items to the attention of University's Designated Administrator.

#### **3.4 AREA TABULATION**

3.4.1 Design Professional shall update the area tabulation.

#### **3.5 DESIGN INTENT NARRATIVE**

3.5.1 Design Professional shall update the Design Intent Narrative. All fire safety items including the flame spread rating of all applicable material and finishes shall be identified.

#### **3.6 MATERIAL BOARD**

3.6.1 Design Professional shall update the Material Board(s) to include samples of all finish materials listed in the materials/color schedule.

#### **3.7 CIVIL DRAWINGS**

3.7.1 Grading Plan - Design Professional shall update the plan to show the general method of site drainage as affected by each proposed building. Added shall be baseline and benchmark references and elevations of major exterior elements including those for stairways, walls, and terraces.

3.7.2 Utility Plan - Design Professional shall update the plan to indicate all utility lines, duct banks, tanks and equipment that are to be abandoned, removed, or rerouted.

3.7.3 Conceptual Staging and Bicycle Routing Plan - Design Professional shall prepare plans to indicate Contractor staging and parking areas. Impacted bicycle and pedestrian pathways and proposed rerouting shall be identified.

3.7.4 Site utilization plan indicating traffic studies for pedestrian and vehicular access adjacent to the building that will be impacted by construction.

#### **3.8 LANDSCAPE DRAWINGS**

3.8.1 Landscape Plans shall show hardscape, planting and other improvements.

#### **3.9 ARCHITECTURAL DRAWINGS**

3.9.1 Floor Plans (with a scale of not less than 1/8-inch = 1-foot 0-inches) shall include:

- .1 Corridors (with widths)
- .2 Door swings
- .3 Locations and fire ratings of all fire separations, exit enclosures, fire doors, and similar elements, as required by applicable codes.

- .4 Accessible toilets and drinking fountains.
  - .5 Plumbing fixtures such as lavatories, floor drains, water closets, urinals, service sinks, drinking fountains, eyewash fountains, deluge showers, and fire-hose cabinets.
  - .6 Built-in features such as fixed auditorium seats, kitchen equipment, display cases, counters, shelves, lockers, laboratory benches, casework, glass washers, sterilizers, fume hoods, and similar items.
  - .7 Movable furniture, which in most cases is "not in contract" (NIC), including "interior landscape" partitions and equipment. Differentiate between movable furniture and equipment and built-in furniture and equipment (built-in items are usually included in the construction contract).
  - .8 Reference all sections and elevations.
  - .9 Site utilization plan indicating traffic studies for pedestrian and vehicular access adjacent to the building that will be impacted by construction.
- 3.9.2** Roof plan shall show associated equipment, slopes, ridges, drains, and other items.
- 3.9.3** Elevations shall include:
- .1 Building elements including penthouses, entrances, windows, doors, stairs, platforms, louvers, vents, exhaust stacks, retaining walls, and similar items. Indicate proposed finished grades.
  - .2 Windowsill and head heights.
- 3.9.4** Sections shall include:
- .1 Longitudinal and transverse sections for each major area, indicating floor elevations, existing and proposed exterior grades, ceiling heights, pipe tunnels, unexcavated areas, basement areas, rooflines, and parapets. Show cuts for connections to adjoining buildings where appropriate.
  - .2 Include a small-scale plan or diagram (if necessary) to indicate section lines for each elevation and section.
  - .3 Provisions for HVAC distribution and hood venting.
- 3.9.5** Large Scale Drawings - Provide detail plans, sections, and elevations for the following types of space:
- .1 Classrooms and lecture halls.
  - .2 Kitchens and related service areas.
  - .3 Laboratories and laboratory support areas.
  - .4 Toilet and locker rooms.
  - .5 Other areas of special design with notes related to materials and design.
- 3.9.6** Schedules shall include:
- .1 Door schedule indicating each door type, size, material, hardware group and pertinent comments.
  - .2 Window schedule indicating each window type, size, material, and pertinent comments.
  - .3 Preliminary interior finish schedule indicating the material, texture, and color of each finish material proposed for use in the Project.
- 3.10 STRUCTURAL DRAWINGS**
- 3.10.1** Design Professional shall provide structural plans for each level of the structure (including each foundation and roof level) at the same scale as that used for the architectural plans. Design Professional shall indicate the grid system (dimensioned), columns, load-bearing walls, shear walls, footings, and related items.
- 3.11 PLUMBING DRAWINGS**
- 3.11.1** Floor Plans shall show:
- .1 Plumbing fixtures and any equipment requiring plumbing service (including pumps, tanks, generators, pressure-reducing valves, etc.) showing their locations and required piping connections.
  - .2 Main waste lines and stacks and vents as well as all service mains, including those for water, air, gas, and vacuum. Plumbing chases in multi-storied buildings.
  - .3 Fire water mains, standpipes and hose racks.
- 3.12 HVAC DRAWINGS**
- 3.12.1** Floor Plans shall show:
- .1 Mechanical equipment including air handling units, chillers, cooling towers, pumps, converters, expansion tanks, boilers, fans, fan coil units, heat exchangers, fume hoods and other equipment.
  - .2 Mains for each duct system.
  - .3 Typical supply and return air zones for each type of occupancy (offices, laboratories, computer rooms, conference rooms, and special application rooms.) A typical air zone shall include the terminal unit with all applicable branch ducts and air outlets and inlets.

- .4 Typical exhaust air duct for each type of application (hoods, toilet rooms, janitors' closets, transformers, mechanical/electrical equipment rooms, and other rooms as required for a satisfactory indoor environment.) A typical duct shall include an air inlet and a source destination for exhaust air.

**3.12.2** Large-Scale Drawings of Equipment Rooms shall show layout of all equipment rooms to ensure that the proposed equipment will fit in the allotted space.

### **3.13 ELECTRICAL DRAWINGS AND CATALOG CUTS**

**3.13.1** Single line diagrams shall be updated to include each load center unit substation, telephone equipment rooms, and closets.

**3.13.2** Floor Plans shall show layouts for power, signal, and communications on one set of drawings, and the lighting layouts shall be shown on a different set of drawings. Included shall be lighting fixtures in typical offices, laboratories, corridors, examination rooms, and similar spaces. A schedule shall be used to show detail.

**3.13.3** Catalog cuts shall be provided for all proposed lighting fixtures.

**3.13.4** Large-Scale Drawings shall include a layout of all equipment rooms to ensure that the proposed equipment will fit in the allotted space.

### **3.14 OUTLINE SPECIFICATIONS**

**3.14.1** Prior to beginning production of the specifications, Design Professional shall schedule a meeting with University's Designated Administrator and the Contract Administration staff to discuss specifications guidelines. At this meeting, University will provide guidelines for preparing specifications. Attendees at this meeting shall include Design Professional and its consultants including specifications writers.

**3.14.2** Outline specifications with a detailed description of all building components and systems shall include:

- .1 An index showing all divisions and sections intended to be used. The format shall be that recommended by the Construction Specifications Institute (CSI), narrow scope type.
- .2 All technical sections in outline specification format.
- .3 A general description of the construction, including the structural system; wall, ceiling, roofing, and waterproofing systems; exterior and interior finishes; and doors, windows, and case work. These descriptions shall include applicable code references.
- .4 Descriptions of the plumbing and HVAC systems including controls, ducts, filtration, and piping. These descriptions shall include applicable code references.
- .5 A general description of electrical services including the voltage and the number of feeders. The specifications shall provide a specific description of items to be served by emergency power and shall describe design considerations for special areas. This description shall include applicable code references.
- .6 A description of fire safety items including all mechanical and electrical devices required by the State Fire Marshal for the intended occupancy of the building.

### **3.15 ENERGY ANALYSIS**

**3.15.1** Design Professional shall submit a complete performance-approach computer simulation demonstrating Title 24 energy compliance for University review and certification. Process loads shall be clearly identified and evaluated as allowed by California Code of Regulations Title 24, Part 6. For non-acute care facilities only, the simulation shall demonstrate compliance with University's requirement to outperform Title 24 energy efficiency requirements by the amount specified in paragraph 1.13 herein. Design Professional shall correct all non-complying aspects of the design, including the energy compliance approach.

### **3.16 SOLE SOURCE LISTING**

**3.16.1** Design Professional shall submit a list of each item of equipment and/or each system to be designated as sole source by the notation in the documents, "or equal (no known equal)". This list shall include the following information:

- .1 Description of each item of equipment and/or each system;
- .2 Estimated cost of each item of equipment and/or each system; and
- .3 Justification as to why each item of equipment and/or each system needs to be from a sole source. Include brief performance specifications detailing those features which, because they are unique or state-of-the-art, or the preclude use of an alternative product.

### **3.17 EMS/HVAC AUTOMATIC TEMPERATURE CONTROLS**

**3.17.1** If applicable to the scope of this Project, Design Professional shall specify automatic Energy Management System (EMS)/HVAC controls systems that communicate with and are interoperable with the campus system. University's Designated Administrator will arrange an initial meeting at the end of the Design Development phase to discuss the integration and specification of the EMS/HVAC Control System. Design Professional shall thereafter incorporate these requirements into Project design and Construction Documents.

**3.18 GREEN BUILDING DESIGN**

3.18.1 Refer to paragraph 1.13 herein.

**ARTICLE 4 - BASIC SERVICES - CONSTRUCTION DOCUMENTS PHASE**

**4.1 GENERAL**

4.1.1 Upon 50%, 100% and backcheck to 100% completion of Construction Documents, Design Professional shall submit updated versions of all of the required items for the Design Development phase submittal as well as the additional items described below. The Construction Documents shall be consistent with the Project Program (including the gross and assignable floor areas), the Construction Budget and the Project Schedule.

4.1.2 Prior to the 100% Construction Documents phase submittal, Design Professional and its consultants shall review University's Bidding Documents for Project requirements and recommend any changes needed to make them applicable to the Project. Design Professional shall include, with the 100% Construction Document phase submittal, a single marked-up set of University's Standard Specifications, Division 1, General Requirements, showing the recommended changes, if any.

4.1.3 The Drawings and Specifications shall be consistent with University's General Conditions and the Division 1 tailored for the Project, as required by subparagraph 4.1.2 herein.

**4.2 CODE ANALYSIS**

4.2.1 Design Professional shall update the code outline.

**4.3 ESTIMATED PROJECT CONSTRUCTION COST**

4.3.1 Design Professional shall update the estimate at each submittal, and shall bring any unusual cost item to the attention of University's Designated Administrator. The 100% Construction Documents estimate shall be updated by Design Professional to incorporate any additional backcheck requirements incorporated after the 100% submittal.

**4.4 AREA TABULATION**

4.4.1 Design Professional shall update the area tabulation.

**4.5 DESIGN INTENT NARRATIVE**

4.5.1 Design Professional shall update the Design Intent Narrative.

**4.6 MATERIAL BOARD**

4.6.1 Design Professional shall update the Material Board(s).

**4.7 50% COMPLETE CONSTRUCTION DOCUMENTS**

4.7.1 Cover Sheet and Regulatory Compliance Drawings shall include:

- .1 Title sheet with index, general notes, legends, and a small-scale Facility/Project location map.
- .2 Code Compliance Calculations and Diagrams.

4.7.2 Civil Drawings shall include:

- .1 Existing civil survey.
- .2 Site demolition plan.
- .3 Site utilities plan:
  - a. Coordinate size and location for all stub outs for connection by Architectural, Mechanical, Plumbing, Electrical, etc. Indicate continuation sheet number.
  - b. Indicate identification number as provided by University on all new manholes, valve boxes, cleanouts, lift stations, etc.
  - c. Completely design steam and condensate lines, steam vaults, expansion legs, anchors and guides.
  - d. Show locations, sizes, and elevations of the site sewer, street water main, and water service into the building.
- .4 Site plan.
- .5 Rough grading plan. Show drainage structures.
- .6 Site profile sections.
- .7 Details.

4.7.3 Landscape Drawings shall include:

- .1 Finished grading plan.



- .2 Hardscape (paving) plan.
- .3 Irrigation plan.
- .4 Planting plan.
- .5 Hardscape details (walls, walks, planters, etc.).
- .6 Irrigation details.
- .7 Planting details.
- .8 Other details as appropriate.

**4.7.4** Architectural Drawings shall include:

- .1 Reflected ceiling plans showing all penetrations.
- .2 Details.

**4.7.5** Structural Drawings shall include:

- .1 Plans that indicate the location, type of member, size, and material of each structural element (including existing elements on renovation projects) for foundations, floors, roofs, and any intermediate levels. List assumed safe bearing pressures on soils and ultimate strengths of concrete.
- .2 Schedules (beam, column and slab).
- .3 Details of all connections, assemblies, expansion joints, and similar items.
- .4 Details of the structural framing systems required to support nonstructural elements and fixed equipment.

**4.7.6** Plumbing Drawings shall include:

- .1 Floor Plans shall show:
  - a. Locations, sizes, and elevations of the building sewer, drains, waste, and waste vent stacks with connections to drains, fixtures, and equipment.
  - b. Locations and sizes of hot, cold, and circulation water mains, branches, and risers from the service entrance and tanks.
  - c. Fire-extinguishing equipment such as sprinklers and wet/dry standpipes.
  - d. Locations and sizes of natural gas, vacuum, and medical gas systems.
- .2 Riser diagrams for each system shall show all plumbing stacks with vents, water risers, and fixture connections for multi-story buildings; materials, gauges, and sizes for all elements.
- .3 Sections shall show structural, HVAC, and piping systems through congested areas.

**4.7.7** HVAC Drawings shall include:

- .1 Mechanical floor plans showing the complete HVAC systems including the following items:
  - a. Heating and steam mains, including branches, with pipe sizes.
  - b. Air-conditioning systems including refrigerators, water and refrigerant piping, and duct work.
  - c. Exhaust and supply ventilating systems showing duct sizes for steam or water connections and piping.
  - d. Air and piping systems, including all branches, on each floor plan.
- .2 Detailed floor plans and sections clearly indicating the work required for all mechanical equipment rooms.
- .3 Air balance schedule indicating the CFM (cubic feet per minute) of outside air, supply air, return air, and exhaust air for each air system.
- .4 Elevations of built-up fan units to ensure required airflows and access to the component parts of the units
- .5 Flow diagram for each of the following types of water systems: Chilled water, Condenser water, Hot water and others as needed to clearly define the scope of work.
- .6 Riser diagram for each type of system (air, chilled water, heating hot water, and specialty systems).
- .7 Mounting details.
- .8 Sequence of operations diagram.

**4.7.8** Electrical Drawings shall include:

- .1 Electrical service entrance and its service switches, the service feeds to the public service feeders, and the characteristics of the light and power currents.
- .2 Transformers and their connections, whether in the building or on the Project site.
- .3 Main switchboard, power panels, light panels, and associated equipment.
- .4 Feeder and conduit sizes.
- .5 Light fixtures, receptacles, switches, and power outlets.
- .6 Telephone outlets, conduits, terminal cabinets, and backboards.
- .7 Complete fire alarm system including its connection to the Facility's system.
- .8 Emergency electrical power system including generator transfer switches, fuel tanks, and all auxiliaries.
- .9 Other systems as required.
- .10 Mounting details.

**4.7.9** Specifications:

- .1 Update the Specification Index.

- .2 Submit, at minimum, any six completed architectural sections from Divisions 2 through 13, one completed mechanical section from Divisions 21 through 23, and one completed electrical section from Division 26. If Division 14 is used, include one completed Section.
- .3 Update the remaining outline specifications in Divisions 2 through 48.
- .4 University will prepare its Bidding Documents including Specifications, Division 1.
- .1 Update the Specification Index.
- .2 Submit, at minimum, any six completed architectural sections from Divisions 2 through 13, one completed mechanical section from Divisions 21 through 23, and one completed electrical section from Division 26. If Division 14 is used, include one completed Section.
- .3 Update the remaining outline specifications in Divisions 2 through 48.
- .4 University will prepare its Bidding Documents including Specifications, Division 1.

#### 4.8 ENERGY ANALYSIS

**4.8.1** Update the Title 24 energy compliance computer simulation specified in paragraph 3.15 herein, including requirement to achieve the energy efficiency specified in paragraph 1.13 herein. Submit California Energy Commission forms certifying that the design complies with the code and the UC Policy on Sustainable Practices. University, acting as the enforcement agency, is required to independently check the designs and certify that they are in compliance with the code. Any non-complying aspect of the design, as determined by University's Designated Administrator, shall be corrected by Design Professional before the design can be certified by University.

#### 4.9 STRUCTURAL, MECHANICAL, AND ELECTRICAL CALCULATIONS

**4.9.1** Design Professional shall clearly list all design criteria, assumptions, and references used. Calculations shall be arranged in a clear manner and shall include schematic diagrams and spreadsheets where necessary together with information sufficient to show compliance with all applicable codes and design standards. Calculations shall be checked and stamped by an engineer registered in the applicable discipline. Submitted calculations shall include, but not be limited to:

- .1 Structural Calculations:
  - a. Preface with a statement outlining the basis for the structural design and indicating the manner in which the proposed building will resist vertical loads and horizontal forces.
  - b. Structural diagrams shall be accompanied by computations, stress diagrams and other pertinent data and shall be complete to the extent that calculations for individual structural members can be readily interpreted.
  - c. List assumed safe bearing pressures on soils and ultimate strengths of concrete.
  - d. Where unusual conditions occur, submit additional data as is pertinent.
- .2 Mechanical Calculations:
  - a. Heating and cooling load calculations.
  - b. Psychrometric charts and air conditions.
  - c. Fan and coil sizing calculations and selection data.
  - d. Sizing calculations and selection data for chillers, boilers, cooling towers, heat exchangers, packaged air conditioners, etc.
  - e. Ductwork and pipe sizing calculations. (Include flows per room or coil, sizing method used and pressure drops).
  - f. Domestic/industrial hot water sizing calculations, including pump sizing.
  - g. Structural and seismic calculations for equipment supports (may be submitted with structural calculations).
- .3 Electrical Calculations:
  - a. Summary of electrical loads used in calculating transformer size.
  - b. Fault interruption calculations.
  - c. Point-by-point lighting analysis for all interior rooms and exterior areas showing light level contours graphically.
  - d. Structural and seismic calculations for equipment supports (may be submitted with structural calculations).
- .4 Plumbing Calculations
- .5 Communications, and other specialized building system calculations.

#### 4.10 UTILITY SHUT DOWN PLAN

**4.10.1** Design Professional shall provide a detailed Utility Shut Down Plan that identifies all utilities affected, how the utility is to be isolated, maximum allowable duration of interruption (if applicable) and the affected facilities for all major shut downs. Design Professional shall specify by-pass or temporary service if required to minimize disruption to University.

#### 4.11 SOLE SOURCE LIST

**4.11.1** Design Professional shall update the sole source list.

#### 4.12 NOT USED.

#### **4.13 100% COMPLETE CONSTRUCTION DOCUMENTS**

**4.13.1** Design Professional shall update the documents required for the 50% Construction Document submittal and provide additional drawings, details and specifications in sufficient detail as to be deemed 100% complete and buildable. Prior to submitting the 100% Construction Documents, Design Professional and its consultants shall have thoroughly checked, coordinated, and revised all documents to bring them to 100% completed level:

- .1 Architectural Drawings: Detail the anchorage of all fixed equipment.
- .2 Mechanical Drawings: A sufficient level of detail shall be provided to illustrate connections, routings, and other items in complex areas.
- .3 Electrical Drawings: A sufficient level of detail shall be provided to illustrate connections, routings, and other items in complex areas. All wiring shall be final-sized. Provide a schedule of feeder breakers or switches, locations of all circuits, details for other systems as required.
- .4 Soils and Materials Testing Recommendations: Design Professional shall provide written recommendations for construction phase testing and special inspections such as soils and materials testing, welding inspections, and dewatering requirements.
- .5 Contract Documents: University will prepare Bidding Documents including Specifications Division 1. University will provide the Cover Page, Table of Contents, Advertisement for Bids, Project Directory, Instructions to Bidders, Supplementary Instructions to Bidders, Information Available to Bidders, Bid Form, Location Map(s), Geotechnical Engineering Report, Prevailing Wage Determinations, Qualifications Questionnaire, Bonds, Agreement, General Conditions, Supplemental Conditions, Equal Opportunity Documentation, Exhibits and Specifications, Division 1, General Requirements. Design Professional shall provide or assist with the following documents:
  - a. Certification Page (prepared by University, signed and stamped by Design Professional)
  - b. Project Description (furnished by Design Professional, prepared by University)
  - c. Index to the Specifications (furnished by Design Professional, prepared by University)
  - d. Specifications, Divisions 2 through 48
  - e. List of Drawings (with dates furnished by Design Professional, prepared by University).

#### **4.14 LETTER OF ASSURANCE**

**4.14.1** Upon completing the 100% Construction Documents, Design Professional shall submit to University a Letter of Assurance attesting that the documents are complete and ready to bid.

#### **4.15 LIST OF ROOMS AND SPACES**

**4.15.1** Design Professional shall provide a complete listing of all rooms and spaces, as required in Format for Listing Rooms and Spaces in the Exhibits.

#### **4.16 BUY CLEAN CALIFORNIA ACT**

**4.16.1** If the Construction Budget is estimated to be in excess of \$1,000,000, the Project will be subject to the University's policy on the Buy Clean California Act (California Public Contract Code Sections 3500, et seq.). Upon submittal of the 100% Construction Documents, Design Professional shall also submit a complete list of all "eligible materials" as defined by law that will require the submittal of an Environmental Product Declaration (EPD) listed by individual specification sections

#### **4.17 100% BACKCHECK CONSTRUCTION DOCUMENTS**

**4.17.1** The 100% Backcheck submittal shall either incorporate all changes and corrections required by University and review agencies as a result of their review of the 100% Construction Documents, or be accompanied by a written statement as to why such changes were not incorporated. University may reject Design Professional's explanation and require Design Professional to make the changes or corrections to the Construction Documents as previously requested by University.

**4.17.2** Unless directed otherwise in writing by University, the Construction Document phase shall not be considered complete until all required agency and University approvals have been received by Design Professional. When all University and review agency required changes or corrections have been incorporated by Design Professional, the Construction Documents will be deemed to be final and ready for bid

**4.17.3** Final Construction Drawings and the Certification page of the specifications submitted to University for bidding purposes shall be signed and stamped by Design Professional or the appropriate Design Professional's consultant.

### **ARTICLE 5 - BASIC SERVICES - BIDDING PHASES OF THE WORK**

#### **5.1 GENERAL**

**5.1.1** If prequalification of CM/Contractors and/or CM/Contractor's subcontractors is required by University, Design Professional shall review and comment on the prequalification criteria prepared by University and/or CM/Contractor.

**5.1.2** Design Professional's Project Architect or Engineer shall assist University in the review and evaluation of bids if requested by University.

## 5.2 UNIVERSITY ADMINISTRATION

5.2.1 University will administer and coordinate the following:

- .1 Reproduction of all documents, including addenda.
- .2 Completing and placing the Advertisement for Bids.
- .3 Scheduling and coordination of pre-bid conference and site visits.
- .4 Receipt of questions from bidders and distribution of questions to Design Professional.
- .5 Receipt of addenda documents from Design Professional.
- .6 Issuance of addenda.
- .7 Receipt of Bids.
- .8 Rejection of Bids.
- .9 Bidder Protests.
- .10 Contract Award and Execution.

## 5.3 PRE-BID CONFERENCE AND SITE VISIT

5.3.1 University's Representative will conduct pre-bid conferences and pre-bid site visits with potential bidders to help identify questions that bidders may raise during the Bidding phase. Questions from prospective Bidders shall be collected by University's Representative during these conferences and site visits. No questions shall be answered at these events which require interpretation, clarification or modifications of the Contract Documents.

## 5.4 BIDDERS' INQUIRIES

5.4.1 During the Bidding phase, University's Representative (or designee) will receive all requests for interpretation, clarification and modification from Bidders, and log in the date, time, and caller's name and question. University's Representative will forward this information to Design Professional. Design Professional shall submit all responses to said items to University's Representative only. Design Professional and its consultants shall not issue any verbal or written statements regarding the Bidding Documents.

5.4.2 University's Representative sets the deadline for receiving all requests for clarification or interpretation of the Bidding Documents. Questions received after the deadline may be answered at the discretion of University's Representative.

## 5.5 ADDENDA

5.5.1 Interpretation, clarification, and modification of the Contract Documents shall be issued only in the form of an Addendum to the Contract Documents. Design Professional shall furnish the information required to University for issuance of Addenda.

5.5.2 Design Professional is responsible for receiving, reviewing, approving, coordinating, and incorporating addenda items received from its consultant(s) into a single addendum document prior to submitting this document to University. Addenda shall be submitted to University in the same format as the Construction Documents except as follows:

- .1 In the Specifications, all additions shall be shown in bold underline or bold italics and all deletions shown in strikethrough.
- .2 In the Drawings, all changes shall be "clouded."

5.5.3 Design Professional shall provide to University at the end of the Bidding phase the following documents with changes identified as follows. In the Specifications all additions shall be shown in bold underline or bold italics and all deletions shown in strikethrough. In the Drawings, changes shall be "clouded."

- .1 One complete set in hard copy format of Construction Drawings and Specifications that fully integrate all addenda items.
- .2 One complete set on CD-ROM of Construction Drawings and Specifications that fully integrate all addenda items.

## 5.6 SUBMITTAL LIST

5.6.1 Design Professional shall submit, prior to the bid date, a complete list of all submittals required by the Contract Documents listed by individual specification sections.

## 5.7 PRE-AWARD CONFERENCE

5.7.1 Design Professional shall, if requested by University, participate in a pre-award meeting to include review of CM/Contractor's submittals which are received with the signed Agreement of the Construction Contract.

## 5.8 MULTIPLE BID PACKAGES

5.8.1 There will be multiple Bid Packages for the Project which may be assembled and bid concurrently as a portion of the Project. Portions of the Project will be bid separately from other portions. During bidding of each Bid Package, Design Professional shall assist University and/or CM/Contractor in document clarification and in the preparation of Addenda as required for issuance only by University or CM/Contractor in accordance with addenda requirements specified in said Bid Package Bidding Documents. Design Professional's

Project Architect or Engineer shall attend all scheduled pre-bid conferences and jobsite visits unless otherwise approved in advance by University's Representative.

**5.8.2** Design Professional responsibilities specified in Paragraphs 5.1 through 5.7 above shall apply to all Multiple Bid Packages for this Project.

## **ARTICLE 6 - BASIC SERVICES - CONSTRUCTION PHASE**

### **6.1 GENERAL**

**6.1.1** Design Professional's responsibilities shall include, but not be limited to, interpretation of the Contract Documents; periodic site observations; review of submittals; review of Environmental Product Declarations; review of the Project Schedule (and all proposed updates and revisions thereto); providing comments to the University's Representative regarding Design Professional's ability to undertake its responsibilities pursuant to this Agreement within the time provided in proposed revisions and updates to the Project Schedule; providing cost or schedule analysis for field or change orders; preparation of documents for proposed changes; review of and making recommendations regarding approval of CM/Contractor cost, schedule or application for payment data; and general consultation to University on design matters. All responsibilities of the Design Professional pursuant to this Agreement, including but not limited to services provided during the Construction Phase, shall be undertaken in conformance with the Project Schedule (and all revisions and updates thereto). Design Professional shall employ and assign adequate professional staff and subconsultants to ensure its ability to perform services in accordance with the Project Schedule (and all proposed revisions and updates thereto). Design Professional shall be fully responsible for all matters related to Design Professional's design and all of Design Professional's recommendations to University which are carried out by University without substantive change. Design Professional's duties shall not include administration of communications with CM/Contractor, chairing meetings with CM/Contractor, monitoring the schedule; negotiation of price changes; and coordination of closeout. Design Professional shall cooperate with University's Representative in University's Representative's provision of contract administration services as those services are described in the Contract Documents.

**6.1.2** Except as otherwise provided in the Contract Documents or as directed by University, all written communications with CM/Contractor shall be sent and received by University's Representative. Design Professional shall advise and consult with University's Representative and shall keep University's Representative informed of the observed progress of the Work. Design Professional shall render written or graphic interpretations and decisions that are consistent with the intent of, and reasonably inferable from, the Contract Documents; review and recommend any action to be taken regarding CM/Contractor's required submittals; and evaluate, with University's Representative, the equivalence of proposed substitutions for materials, products, or services specified by brand or trade names in the Contract Documents and recommend either approval or rejection of substitutions as being equal in quality, utility, and appearance. Such services shall be performed in accordance with the requirements of the Project Schedule (and all proposed revisions and updates thereto).

**6.1.3** Design Professional shall perform all Construction phase services in a timely manner, as required by the Project Schedule (and all revisions and updates thereto), this Agreement and the Contract Documents. Design Professional shall employ and assign adequate professional staff and subconsultants to ensure that its interpretations, decisions, reviews, or other functions pursuant to this Agreement do not cause or contribute to a disruption of construction or a delay in completion of the Project.

**6.1.4** Design Professional shall, at no cost to University, satisfactorily correct any and all errors, omissions, deficiencies, or conflicts in the Construction Documents prepared by Design Professional or Design Professional's consultants promptly upon discovery or notice. The obligations of Design Professional to correct defective or nonconforming Work shall not in any way limit any other obligations of Design Professional.

### **6.2 CONTRACT DOCUMENTS COMPLIANCE**

**6.2.1** Design Professional shall make (1) periodic on-site observations of construction as it progresses except for periods of construction downtime as approved by University in writing, and upon completion of construction and (2) off-site observations of fabricated materials and equipment when such off-site checks are specified in the Contract Documents. Observations shall be conducted deliberately and thoroughly. The frequency, duration, and extent of such observations shall be appropriate to and for: the progress, character, and complexity of the Work; design issues or questions of concern to Design Professional, its consultants, University's Representative or as noted in any inspection reports furnished to Design Professional; the observed quality of CM/Contractor's performance during previous visits; the review of construction of crucial components of the Work; and the observation of the performance of specified or University's Representative's directed tests significant to the acceptability of crucial components of the Work. Such observations shall also be performed when reasonably requested by University.

**6.2.2** Observations shall be for the purpose of ascertaining: the progress of the Work; that the character, scope, quality and detail of construction (including workmanship and materials) comply with the design expressed in the Contract Documents, University's Representative's directives, approved product data and samples and clarification drawings. Observations shall be separate from any inspections which may be provided by University. University's provision of inspection services, if any, shall not relieve Design Professional of its responsibilities under this Agreement.

For HCAI related projects, University's inspectors, if any, shall be satisfactory to Design Professional and shall act under the direction of Design Professional to the extent required by law.

**6.2.3** Design Professional shall have the authority to recommend rejection of Work that is defective or that does not conform to any of the following: the Contract Documents; Design Professional's directives; applicable code requirements; approved shop drawings,

product data, and samples; or clarification drawings. Such rejection shall be transmitted to University's Representative in writing for communication to CM/Contractor.

**6.2.4** Design Professional shall recommend special inspection or testing of the Work in accordance with the provisions of the Contract Documents if, in Design Professional's reasonable opinion, such inspection or testing is necessary or advisable for the implementation of the Contract Documents, regardless of the state of completion of the Work subject to such inspection or testing.

**6.2.5** Design Professional shall review inspection reports, laboratory reports, and test data to determine conformity of such data with: the design requirements expressed, implied, or depicted in the Contract Documents; approved Shop Drawings, Product Data, and Samples; and Clarification Drawings.

**6.2.6** Design Professional shall also recommend to University's Representative, in writing, about actions that need to be taken by University's Representative, as determined from Design Professional Project site visits, inspection reports, laboratory reports, and test data or from CM/Contractor proposals, or other relevant documents.

### **6.3 INTERPRETATION OF THE CONTRACT DOCUMENTS**

**6.3.1** Design Professional shall be, in the first instance, the interpreter of the design requirements of the Contract Documents and the judge of the performance thereunder.

**6.3.2** Design Professional's decisions or interpretations regarding the Contract Documents, or disputes arising out of the Contract Documents shall be coordinated through and issued by University's Representative following University review, but shall be based upon Design Professional's independent judgment. Information regarding, or changes to, the Contract Documents shall be issued by University on University's forms (Letters of Instruction, Field Orders, and Change Orders).

### **6.4 CHANGES TO THE CONTRACT DOCUMENTS**

**6.4.1** Design Professional shall incorporate changes (issued as revision drawings with Field Orders, RFIs or Change Orders) into the Record Documents on a monthly basis during the Construction phase.

### **6.5 CONSTRUCTION MEETINGS**

**6.5.1** Not Used.

**6.5.2** Construction Meetings: Design Professional shall attend regular construction meetings at the project site scheduled to occur weekly, plus special meetings as they are deemed necessary. Design Professional's consultants shall attend as necessary. If, through no fault of Design Professional, the total number of regular construction meetings attended exceeds 175 meetings, Design Professional shall be compensated for additional meetings in accordance with Agreement paragraph 5.2. Construction meeting notes will be prepared and distributed by University's Representative.

### **6.6 INSPECTION**

**6.6.1** Construction phase inspection, coordinated through University's Representative, will be provided and paid for by University. Design Professional, coordinated through University's Representative, shall provide technical direction to, and interpretation of, the Contract Documents for inspectors and advise these inspectors of decisions rendered.

**6.6.2** The inspectors, acting under the direction of University's Representative, will:

- .1 Be responsible for milestone inspections (spot checks) to assess compliance with the requirements of the Contract Documents.
- .2 Prepare a written report following each milestone inspection. The inspector shall notify University's Representative when work that does not comply with the Contract Document requirements is observed in the field. Observed instances of noncompliance shall be noted in the inspector's report.
- .3 Comment in subsequent inspector's reports on whether or not instances of noncompliance have been corrected.
- .4 Participate in punch list inspections for beneficial occupancy, substantial completion and final completion.
- .5 Assist University's Representative in reviewing test and inspection results from testing laboratories. If University contracts for specialty inspection services, the inspector shall report the results of these inspections to University's Representative.
- .6 Not authorize deviations from the Contract Documents.
- .7 Not advise or issue directions to CM/Contractor regarding any aspect of construction means, methods, techniques, sequences, or procedures or regarding safety programs in connection with the Project.

### **6.7 MATERIALS TESTING**

**6.7.1** University will contract with soils and materials testing laboratories upon Design Professional's recommendations and as required by the Specifications. University's Representative or University's Representative's delegate will coordinate the activities of CM/Contractor and University's testing consultants.

**6.8 MATERIALS/COLOR SCHEDULE AND MATERIALS BOARDS - NOT USED.**

**6.9 COMMISSIONING PLAN**

**6.9.1** Design Professional shall review CM/Contractor's or University's Commissioning Plan for accurate incorporation of design intent.

**6.10 PUNCH LIST**

**6.10.1** Design Professional and its consultants shall review the construction with University's Representative and CM/Contractor when notified that the construction is substantially complete, and again when notified that the construction is fully complete. Design Professional shall compile a punch list indicating any lack of compliance with Contract Document requirements and submit to University's Representative. University's Representative, Design Professional, and CM/Contractor shall also inspect the construction when Beneficial Occupancy is required by University or stipulated in the Contract Documents. Design Professional shall advise on the issuance of the Certificate of Beneficial Occupancy and the Certificate of Substantial Completion in accordance with the Contract Documents.

**6.11 FINAL APPROVAL AND INSPECTION ACCEPTANCE**

**6.11.1** Design Professional and its consultants shall:

- .1 Assist University's Representative to review CM/Contractor's guarantees, and operating data to assess compliance with the Contract Document requirements.
- .2 Assist University's Representative to assemble written guarantees, operating and maintenance instruction books, diagrams, and charts required of CM/Contractor. University's Representative is responsible for verifying that all required submittals have been received.
- .3 Recommend final acceptance of the construction and shall advise University of the acceptability of the work performed by CM/Contractor.
- .4 Advise as to readiness for occupancy and sign a statement of that advice on University's Certificate of Occupancy and Temporary Certificate of Occupancy, as appropriate.
- .5 Attend a final inspection and sign a Final Completion form.

**6.12 REVIEW OF CM/CONTRACTOR'S AS-BUILT DOCUMENTS**

**6.12.1** Design Professional shall review CM/Contractor's As-Built Documents prior to or immediately following each CM/Contractor pay request submitted to verify that CM/Contractor's work is in compliance with the Contract Documents. Design Professional shall review CM/Contractor's final As-Built Documents and verify University's approval of the changes shown on the As-Built Documents prior to Design Professional's preparation of the final Record Documents.

**6.13 RECORD DOCUMENTS**

**6.13.1** Any revisions or changes that have been made during construction shall be incorporated in the Record Documents to show the As-Built condition of the Project. The Record Documents shall include the Contract Documents, CM/Contractor prepared shop, design, and layout drawings (36"x48"). The Record Drawings shall include all revisions and changes made during construction both as issued by Design Professional and University and as recorded by CM/Contractor during the course of the Project. Merely supplementing the Contract Drawings with Change Orders and Field Directive documents stamped "AS-BUILT" is not acceptable. All changes to the construction documents shall be transferred to the original drawings, including the revision of the digital files of the plans, sections and elevations (AutoCAD or equal as approved in advance by University's Designated Administrator) for the Drawings, to reflect a true "As-Built" condition as shown on the Contractor's As-Built drawings. The digital files and plots shall be labeled "RECORD DRAWING" with the appropriate date. Design Professional shall submit an interim set of Record Drawings at the midpoint of construction incorporating all changes to date. Design Professional shall furnish fixed line photo or ink reproducible Record Drawings on bond paper. The final Record Drawings shall be submitted to University within 30 days of receiving CM/Contractor's As-Built Drawings.

**6.13 RECORD DOCUMENTS**

**6.13.1** Any revisions or changes that have been made during construction shall be incorporated in the Record Documents to show the As-Built condition of the Project. The Record Documents shall include the Contract Documents, CM/Contractor prepared shop, design, and layout drawings (36"x48"). The Record Drawings shall include all revisions and changes made during construction both as issued by Design Professional and University and as recorded by CM/Contractor during the course of the Project. Merely supplementing the Contract Drawings with Change Orders and Field Directive documents stamped "AS-BUILT" is not acceptable. All changes to the construction documents shall be transferred to the original drawings, including the revision of the digital files of the plans, sections and elevations (AutoCAD or equal as approved in advance by University's Designated Administrator) for the Drawings, to reflect a true "As-Built" condition as shown on the Contractor's As-Built drawings. The digital files and plots shall be labeled "RECORD DRAWING" with the appropriate date. Design Professional shall submit an interim set of Record Drawings at the midpoint of construction incorporating all changes to date. Design Professional shall furnish fixed line photo or ink reproducible Record Drawings on bond paper. The final Record Drawings shall be submitted to University within 30 days of receiving CM/Contractor's As-Built Drawings. Record Drawings for mechanical, electrical and plumbing will be provided by the CM/Contractor's design-build subcontractors.

## **ARTICLE 7 - ADDITIONAL SERVICES**

Unless required to be performed as part of basic services, the services described in this Article are additional services as described in Agreement Article 3.

### **7.1 PRELIMINARY DESIGN**

**7.1.1** Provide a rough order of magnitude cost estimate based on an anticipated program, scope, schedule, and building area.

**7.1.2** Provide programming services including but not limited to the following:

- .1 Meetings.
- .2 Confirm design and sustainability goals.
- .3 Review and confirm design requirements including sustainability criteria.
- .4 Conduct user interviews.
- .5 Establish and evaluate space needs and data.
- .6 Develop project schedule, delivery method and cost model.
- .7 Conduct space/cost reviews and adjustments.
- .8 Prepare programming document.

### **7.2 PRE-CONSTRUCTION PHASES**

**7.2.1** Provide analyses of University's need and formal programming documentation of the requirements of the Project.

**7.2.2** Provide planning surveys, site evaluations, environmental studies, or comparative studies of prospective Project sites.

**7.2.3** Provide services to investigate existing conditions or facilities, to make measured drawings thereof, or to verify the accuracy of drawings or other information furnished by University beyond those reasonably and customarily provided in Basic Services except that additional information recommended by Design Professional in accordance with Agreement subparagraph 2.1.6 shall not entitle Design Professional to additional compensation.

**7.2.4** Provide planning services for tenant or rental spaces.

**7.2.5** Provide financial feasibility studies or other special studies.

**7.2.6** Prepare special surveys, environmental studies, and submissions required for review or approval by governmental authorities or others having jurisdiction over the Project except submittals required for approval of the Construction Documents and as required to prepare Change Orders under basic services as stipulated in this Agreement.

**7.2.7** Prepare revisions to the documents during the design phases when these revisions are inconsistent with data or written approvals previously given by University, excluding (1) corrections of design errors or omissions, and (2) modifications of the Construction Documents in accordance with Articles 4 and 5 and paragraphs 1.4 and 1.6 herein. **7.2.8** Provide services related to future facilities, systems and equipment that are not intended to be constructed during the Construction phase or that are not anticipated in the Project Program.

**7.2.9** Provide interior design and similar services required for or in connection with the selection, procurement, or installation of furniture, furnishings and related equipment that are not included in the Construction Documents.

**7.2.10** Provide detailed quantity surveys or inventories of material, equipment, and labor.

**7.2.11** Make investigations or take inventories of materials or equipment, or make valuations and detailed appraisals of existing facilities.

**7.2.12** Provide analyses of owning and operating costs, except as needed to prepare the energy analysis required herein or to participate in Construction Cost/Value Control sessions as required by subparagraph 1.6.3 herein.

**7.2.13** Provide perspective drawings, models, and mock-ups, including slides thereof except as indicated in paragraph 2.1 herein for Schematic Design (if applicable) and paragraph 1.5 herein for Regents (or Regents' Designated Authority) presentation.

### **7.3 CONSTRUCTION PHASE**

**7.3.1** Prepare drawings, specifications, supporting data, and other services in connection with Change Orders after the percent change in the Construction Contract Sum as stated in Agreement subparagraph 2.6.7 has been met.

**7.3.2** Provide written communications with CM/Contractor, or provide other University's Representative services as described in the Contract Documents, including but not limited to review and approval of CM/Contractor cost, schedule or application for payment data.

### **7.4 POST-CONSTRUCTION**

**7.4.1** Provide services as necessary to correct major defects or deficiencies in the Work of CM/Contractor when such defects or deficiencies require services in excess of those reasonably expected on a project of this type, size and complexity, excluding warranty



items, provided that such defects or deficiencies are not caused in whole or in part by errors or omissions on the part of Design Professional.

**7.4.2** Provide extensive assistance in the utilization of any equipment or system; prepare operation and maintenance manuals; train personnel for operation and maintenance; and consult during operation.

**7.4.3** Provide services after the issuance of the final Certificate for Payment provided that these services do not relate to the guarantee or warranty services described in Agreement subparagraph 2.6.10 or to corrections of design errors or omissions.

**7.4.4** Provide services regarding replacement of any Work damaged by fire or other cause (excluding any cause resulting from the negligent acts, errors, or omissions by Design Professional).

**7.5 GENERAL**

**7.5.1** Provide services in connection with a public hearing, mediation, arbitration proceeding, or legal proceeding, except where Design Professional is party thereto.

**7.5.2** Provide services made necessary by the termination of CM/Contractor but only to the extent such services exceed the level of service that would have been provided in the absence of a termination of CM/Contractor.  
END OF EXHIBIT C

## EXHIBIT E TO THE EXECUTIVE DESIGN PROFESSIONAL AGREEMENT

### REIMBURSEMENT SCHEDULE

Design Professional will be reimbursed actual expenditures (up to the maximum limit) in accordance with the following reimbursement schedule only when said expenditures are authorized in writing in advance by University, and only when paid invoices, receipts or other proof of payment is submitted:

Item	Description	Maximum Limit
Mileage	Non-rented car	Current Rate*
Per diem	Daily meal and incidental expenses (for periods in excess of 24 hours)	\$62.00**
Air Fare	Refundable ticket, coach, roundtrip	As approved in advance by University
Rental car	Rented car	As approved in advance by University
Hotel	Lodging expenses must be supported by original itemized receipts, regardless of the amounts incurred, and must be reasonable for the locality of travel. The traveler must be at least forty miles from the headquarter location or home, whichever is closer, to be reimbursed for an overnight stay.	

- \* The mileage reimbursement rate is the standard rate for automobiles published by University in Business & Finance Bulletin G-28, "Policy and Regulations Governing Travel," as may be adjusted from time to time by University. Said rate is currently 53.5 cents/mile.
- \*\* For travel of less than 24 hours, Meals and Incidental Expenses ("M&IE") shall not be reimbursed unless the travel includes an "overnight stay" as supported by a lodging receipt. For domestic travel, reimbursement is limited to the actual cost of lodging. Actual M&IE shall be reimbursed up to a maximum of \$62.00 for the entire trip. An exception to the overnight stay requirement may be allowed when the traveler incurs a meal expense as part of a business meeting and must be substantiated as specified in advance by University.

Transportation, lodging, per diem and related expenses for travel between Design Professional's offices and travel between offices of Design Professional and offices of its consultants are not reimbursable. Transportation expenses shall be paid on the same basis and shall be subject to the same conditions as those in effect for employees of University. These expenses shall not be compensable unless authorized, in writing, in advance by University and subject to the following condition(s):

Transportation, lodging, and living expenses shall be reimbursable only while traveling outside the greater Los Angeles area.

#### REPRODUCTION, POSTAGE, AND MISCELLANEOUS EXPENSES:

Expenses for printing, reproductions, postage, handling and delivery for documents, reports, surveys, drawings, and other materials, excluding reproductions for office use by Design Professional and its consultants and postage and delivery for transmittals between Design Professional's offices or between Design Professional and its consultants.

**EXHIBIT G**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**  
**PROJECT PROGRAM**

SAMPLE

**EXHIBIT H**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**  
**INSURANCE**

(attached)

SAMPLE

# EXHIBIT I TO THE EXECUTIVE DESIGN PROFESSIONAL AGREEMENT

Order Number: {#}

## AMENDMENT

Project Name: {Name}  
Project Number: {Number}

Date: {date}

Design Professional (Vendor):  
{TBD}

Amendment Number: {#}  
(Contract ID {#})

Negotiated Lump Sum Fixed Fee: \${TBD}

A. The Agreement between the Regents of the University of California and Design Professional, is hereby amended as follows:

1. {UCLA-INSERT MODIFICATIONS TO THIS AGREEMENT}

All terms and conditions of this Agreement shall remain in full force and effect unless expressly modified herein or by another duly executed Amendment.

IN WITNESS WHEREOF, University and Consultant have executed this Amendment on the date indicated below.

FOR THE UNIVERSITY

By: \_\_\_\_\_ Dated  
{Name}  
{Title}

FOR THE DESIGN PROFESSIONAL

By: \_\_\_\_\_

Dated

# EXHIBIT K TO THE EXECUTIVE DESIGN PROFESSIONAL AGREEMENT

## SELF-CERTIFICATION

For the Contractor and each Subcontractor indicated on the Report of Subcontractor Information, the following must be completed.

OR

For the Consultant and each Sub-consultant, the following must be completed.

Indicate all Business category(ies) that apply by initialing next to the applicable category(ies):

\_\_\_\_\_ (Initial if applicable) **Small Business Enterprise (SBE)** - an independently owned and operated concern certified, or certifiable, as small business by the Federal Small Business Administration (SBA). (Size standards by Standard Industrial Classification codes required by the Federal Acquisition Regulations, Section 19.102, may be found at <http://www.sba.gov/content/table-small-business-size-standards>.) The eligibility requirements for California contracting purposes is on the Department of General Services website at <http://www.dgs.ca.gov/pd/Programs/OSDS/SBEligibilityBenefits.aspx>. The University may rely on written representation by the vendors regarding their status.

\_\_\_\_\_ (Initial if applicable) **Disabled Veteran Business Enterprise (DVBE)** - a business that is at least 51% owned by one or more disabled veterans or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. A Disabled Veteran is a veteran of the military, naval, or air service of the United States with a service connected disability who is a resident of the State of California. To qualify as a veteran with a service connected disability, the person must be currently declared by the United States Veterans Administration to be 10% or more disabled as a result of service in the armed forces.

\_\_\_\_\_ (Initial if applicable) **Disadvantaged Business Enterprise (DBE)** - a business concern that is at least 51% owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free private enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans) are to be considered socially and economically disadvantaged.

\_\_\_\_\_ (Initial if applicable) **Women-Owned Business Enterprise (WBE)** - a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.

\_\_\_\_\_ (Initial if applicable) **None of the above categories apply.**

I hereby certify under penalty of perjury under the laws of the State of California that I have read this certification and know the contents thereof, and that the business category indicated above reflects the true and correct status of the business in accordance with Federal Small Business Administration criteria and Federal Acquisition Regulations, FAR 19 pertaining to small, disadvantaged, women-owned, and disabled veteran business enterprises. I understand that falsely certifying the status of this business, obstructing, impeding or otherwise inhibiting any University of California official who is attempting to verify the information on this form may result in suspension from participation in University of California business contracts for a period up to five (5) years and the imposition of any civil penalties allowed by law.

INFORMATION FURNISHED BY:

\_\_\_\_\_  
(Print or Type Name of Owner and/or Principal)

\_\_\_\_\_  
(Name of Business or Firm)

a

\_\_\_\_\_  
(Insert type of business e.g. corporation, sole proprietorship, partnership, etc.)

By:

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

PRIVACY NOTICE

The State of California Information Practices Act of 1977 (effective July 1, 1978) requires the University of California to provide the following information to individuals who are asked to supply personal information about themselves. Information furnished on the Self-Certification form may, in some cases, identify personal information of an individual.

- The University of California, Los Angeles, is requesting the information contained in this form and the accompanying Report of Subcontractor Information.
- The Small Business Coordinator at the University of California, Los Angeles, is responsible for maintaining the requested information. The contact information for the Small Business Coordinators may be found at: <http://www.ucop.edu/procurement-services/files/sbdmgr.xlsx>.
- The maintenance of information is authorized in part by Public Contract Code section 10500.5.
- Furnishing the information requested on this form is mandatory. If SBE, DBE, WBE and/or DVBE status is applicable, furnishing such information is mandatory.
- Failure to provide the information may be a violation of bidding procedures and/or breach of the contract and the University may pursue any and all remedies permitted by the provisions of the Contract Documents.
- The information on this form is collected for monitoring and reporting purposes in accordance with state law and University policy.

The individual may access information contained in this form and related forms by contacting the Small Business Coordinator(s).

**EXHIBIT L**  
**TO THE**  
**EXECUTIVE DESIGN PROFESSIONAL AGREEMENT**

**FINAL DISTRIBUTION OF CONTRACT DOLLARS**

Sheet No. 1 of 1

1	2	3	4	5					6	
Full Name of Business	Street Address, City, State and ZIP	Telephone No/ Fax No	Contact Name	Business Categories					Contract Dollars	
				SBE	DBE	WBE	DVBE	N/A	Amount (\$)	Percent (%)
(DP)										0%
(Sub1)										0%
(Sub2)										0%
(Sub3)										0%
										0%
										0%
										0%
										0%
										0%
										0%
										0%
										0%
										0%
<b>Total Contract Amount = \$ _____</b>				<b>Column 5 – Business Categories</b>					<b>SUBTOTALS</b>	
				SBE = Small Business Enterprise					\$	
				DBE = Disadvantaged Business Enterprise					\$	
				WBE = Women Business Enterprise					\$	
				DVBE = Disabled Veteran Business Enterprise					\$	



## GENERAL CONDITIONS

UNIVERSITY OF CALIFORNIA  
LOS ANGELES CAMPUS  
LOS ANGELES, CALIFORNIA

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**ARTICLE 1**  
**GENERAL PROVISION**

**1.1 BASIC DEFINITIONS**

- 1.1.1 **APPLICABLE CODE REQUIREMENTS** - The term "Applicable Code Requirements" means all laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, Contractor, any Subcontractor, the Project, the Project site, the Work, or the prosecution of the Work including without limitation the requirements set forth in Article 3.7.
- 1.1.2 **APPLICATION FOR PAYMENT** - The term "Application for Payment" means the submittal from Contractor wherein payment for certain portions of the completed Work is requested in accordance with Article 9.
- 1.1.3 **BENEFICIAL OCCUPANCY** - The term "Beneficial Occupancy" means University's occupancy or use of any part of the Work in accordance with Article 9.
- 1.1.4 **CERTIFICATE FOR PAYMENT** - The term "Certificate for Payment" means the form signed by University's Representative attesting to Contractor's right to receive payment for certain completed portions of the Work in accordance with Article 9.
- 1.1.5 **CHANGE ORDER** - See Article 7.2 of the General Conditions.
- 1.1.6 **CLAIM** - See Article 4.3 of the General Conditions.
- 1.1.7 **COMPENSABLE DELAY** - The term "Compensable Delay" means a delay that entitles Contractor to an adjustment of the Contract Sum and an adjustment of the Contract Time pursuant to Articles 7 and 8 of the General Conditions.
- 1.1.8 **CONTRACT** - The term "Contract" shall have the meaning identified in Article 2 of the Agreement.
- 1.1.9 **CONTRACT DOCUMENTS** - The term "Contract Documents" means all documents listed in Article 2 of the Agreement, as modified by Change Order, including but not limited to the Drawings and Specifications.
- 1.1.10 **CONTRACT MILESTONE** - The term "Contract Milestone" means any requirement in the Contract Documents that reflects a planned point in time for the start or completion of a portion of the Work measured from i) the date of the Notice to Proceed or ii) the date of another Contract Milestone defined in the Contract Documents, as applicable.
- 1.1.11 **CONTRACT SCHEDULE** - The term "Contract Schedule" means the graphical representation of a practical plan, in accordance with the Specifications, to perform and complete the Work within the Contract Time in accordance with Article 3.
- 1.1.12 **CONTRACT SUM** - The term "Contract Sum" means the amount of compensation stated in the Agreement for the performance of the Work, as adjusted by Change Order.
- 1.1.13 **CONTRACT TIME** - The term "Contract Time" means the number of days set forth in the Agreement, as adjusted by Change Order, within which Contractor must achieve Final Completion.
- 1.1.14 **CONTRACTOR** - The term "Contractor" means the person or firm identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number.
- 1.1.15 **CONTRACTOR FEE** - See Article 7.3 of the General Conditions.
- 1.1.16 **COST OF EXTRA WORK** - See Article 7.3 of the General Conditions.
- 1.1.17 **DAY** - The term "day," as used in the Contract Documents, shall mean calendar day, unless otherwise specifically provided.
- 1.1.18 **DEFECTIVE WORK** - The term "Defective Work" means work that is unsatisfactory, faulty, omitted, incomplete, deficient, or does not conform to the requirements of the Contract Documents, directives of University's Representative, or the requirements of any inspection, reference standard, test, or approval specified in the Contract Documents.
- 1.1.19 **DRAWINGS** - The term "Drawings" means the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams. The Drawings are listed in the List of Drawings.
- 1.1.20 **EXCUSABLE DELAY** - The term "Excusable Delay" means a delay that entitles Contractor to an adjustment of the Contract Time but not an adjustment of the Contract Sum, pursuant to Articles 7 and 8 of the General Conditions.
- 1.1.21 **EXTRA WORK** - The term "Extra Work" means Work beyond or in addition to the Work required by the Contract Documents.
- 1.1.22 **FIELD ORDER** - See Article 7.2 of the General Conditions.
- 1.1.23 **FINAL COMPLETION** - The term "Final Completion" means the date at which the Work has been fully completed in accordance with the requirements of the Contract Documents pursuant to Article 9.8.1 of the General Conditions.
- 1.1.24 **GUARANTEE TO REPAIR PERIOD** - See Article 12.2 of the General Conditions.
- 1.1.25 **HAZARDOUS MATERIAL** - The term "Hazardous Material" means any substance or material identified as hazardous under any California or federal statute governing handling, disposal and/or cleanup of any such substance or material.
- 1.1.26 **PROJECT** - The term "Project" means the Work of the Contract and all other work, labor, equipment, and materials necessary to accomplish the Project. The Project may include construction by University or by Separate Contractors.

- 1.1.27 PROJECT SITE - The term "Project Site" or "Project site" or "Site" or "site" means lands and facilities upon which the Work pertaining to physical construction operations is performed, including such access and other lands and facilities designated in the Contract Documents for use by Contractor.
- 1.1.28 SEPARATE CONTRACTOR - The term "Separate Contractor" means a person or firm under separate contract with University performing other work related to the Project.
- 1.1.29 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES - See Article 3.12 of the General Conditions.
- 1.1.30 SPECIFICATIONS - The term "Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.
- 1.1.31 SUBCONTRACTOR - The term "Subcontractor" means a person or firm that has a contract with Contractor or with a Subcontractor to perform a portion of the Work. Unless otherwise specifically provided, the term Subcontractor includes Subcontractors of all tiers.
- 1.1.32 SUBSTANTIAL COMPLETION - See Article 9.7 of the General Conditions.
- 1.1.33 SUPERINTENDENT - The term "Superintendent" means the person designated by Contractor to represent Contractor at the Project site in accordance with Article 3.
- 1.1.34 TIER - The term "tier" means the contractual level of a Subcontractor or supplier with respect to Contractor. For example, a first-tier Subcontractor is under subcontract with Contractor, a second-tier Subcontractor is under subcontract with a first-tier Subcontractor, and so on.
- 1.1.35 UNEXCUSABLE DELAY - The term "Unexcusable Delay" means a delay that does not entitle Contractor to an adjustment of the Contract Sum and does not entitle Contractor to an adjustment of the Contract Time.
- 1.1.36 UNILATERAL CHANGE ORDER - See Article 7.2 of the General Conditions.
- 1.1.37 UNIVERSITY - The term "University" means The Regents of the University of California.
- 1.1.38 UNIVERSITY'S BUILDING OFFICIAL - The term "University's Building Official," or "Certified Building Official," means the individual University has designated to act in the capacity as the "Building Official" as defined by the California Building Standards Code. University's Building Official will determine whether the Work complies with Applicable Code Requirements and will determine whether and when it is appropriate to issue a Certificate of Occupancy.
- 1.1.39 UNIVERSITY'S REPRESENTATIVE - The term "University's Representative" means the person identified as such in the Agreement.
- 1.1.40 UNIVERSITY'S RESPONSIBLE ADMINISTRATOR - The term "University's Responsible Administrator" means the person, or his or her authorized designee, who is authorized to execute the Agreement, Change Orders, Field Orders, and other applicable Contract Documents on behalf of University,
- 1.1.41 WORK - The term "Work" means all construction, services and other requirements of the Contract Documents as modified by Change Order, whether completed or partially completed, and includes all labor, materials, equipment, tools, and services provided or to be provided by Contractor to fulfill Contractor's obligations. The Work may constitute the whole or a part of the Project.

## 1.2 OWNERSHIP AND USE OF CONTRACT DOCUMENTS

- 1.2.1 The Contract Documents and all copies thereof furnished to or provided by Contractor are the property of University and are not to be used on other work.

## 1.3 INTERPRETATION

- 1.3.1 The Contract Documents are complementary and what is required by one shall be as binding as if required by all. In the case of conflict between terms of the Contract Documents, the following order of precedence shall apply:

- .1 The Agreement,
- .2 The Supplementary Conditions,
- .3 The General Conditions,
- .4 The Specifications,
- .5 The Drawings.

- 1.3.2 With respect to the Drawings, figured dimensions shall control over scaled measurements and specific details shall control over typical or standard details.
- 1.3.3 With respect to the Contract Documents, Addenda shall govern over other portions of the Contract Documents to the extent specifically noted; subsequent Addenda shall govern over prior Addenda only to the extent specifically noted.
- 1.3.4 Organization of the Specifications into various subdivisions and the arrangement of the Drawings shall not control Contractor in dividing the Work among Subcontractors or in establishing the extent of work to be performed by any trade.
- 1.3.5 Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings; and non-technical words and abbreviations are used in accordance with their commonly understood meanings.

1.3.6 The Contract Documents may omit modifying words such as "all" and "any," and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation," "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement.

1.3.7 Whenever the context so requires, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust, or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only for reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

## ARTICLE 2 UNIVERSITY

### **2.1 INFORMATION AND SERVICES PROVIDED BY UNIVERSITY**

2.1.1 If required for performance of the Work, as determined by University's Representative, University will make available a survey describing known physical characteristics, boundaries, easements, and utility locations for the Project site.

2.1.2 University is not subject to any requirement to obtain or pay for local building permits, inspection fees, plan checking fees, or certain utility fees. Except as otherwise provided in the Contract Documents, University will obtain and pay for any utility permits, demolition permits, easements, and government approvals for the use or occupancy of permanent structures required in connection with the Work.

2.1.3 Contractor will be furnished, free of charge, such copies of the Contract Documents as University deems reasonably necessary for execution of the Work.

### **2.2 ACCESS TO PROJECT SITE**

2.2.1 University will provide, no later than the date designated in the Contract Schedule accepted by University's Representative, access to the lands and facilities upon which the Work is to be performed, including such access and other lands and facilities designated in the Contract Documents for use by Contractor.

### **2.3 UNIVERSITY'S RIGHT TO STOP THE WORK**

2.3.1 If Contractor fails to correct Defective Work as required by Article 12.2 or fails to perform the Work in accordance with the Contract Documents, University or University's Representative may direct Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated by Contractor. Contractor shall not be entitled to any adjustment of Contract Time or Contract Sum as a result of any such order. University and University's Representative have no duty or responsibility to Contractor or any other party to exercise the right to stop the Work.

### **2.4 UNIVERSITY'S RIGHT TO CARRY OUT THE WORK**

2.4.1 If Contractor fails to carry out the Work in accordance with the Contract Documents, fails to provide sufficient labor, materials, equipment, tools, and services to maintain the Contract Schedule, or otherwise fails to comply with any material term of the Contract Documents, and, after receipt of written notice from University, fails within 2 days, excluding Saturdays, Sundays and legal holidays, or within such additional time as University may specify, to correct such failure, University may, without prejudice to other remedies University may have, correct such failure at Contractor's expense. In such case, University will be entitled to deduct from payments then or thereafter due Contractor the cost of correcting such failure, including without limitation compensation for the additional services and expenses of University's consultants made necessary thereby. If payments then or thereafter due Contractor are not sufficient to cover such amounts, Contractor shall pay the additional amount to University.

### **2.5 UNIVERSITY'S RIGHT TO REPLACE UNIVERSITY'S REPRESENTATIVE**

2.5.1 University may at any time and from time to time, without prior notice to or approval of Contractor, replace University's Representative with a new University's Representative. Upon receipt of notice from University informing Contractor of such replacement and identifying the new University's representative, Contractor shall recognize such person or firm as University's Representative for all purposes under the Contract Documents.

## ARTICLE 3 CONTRACTOR

### **3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

3.1.1 Contractor and its Subcontractors shall review and compare each of the Contract Documents with the others and with information furnished or made available by University, and shall promptly report in writing to University's Representative any errors, inconsistencies, or omissions in the Contract Documents or inconsistencies with Applicable Code Requirements observed by Contractor or its Subcontractors.

3.1.2 Contractor and its Subcontractors shall take field measurements, verify field conditions, and carefully compare with the Contract Documents such field measurements, conditions, and other information known to Contractor before commencing the Work. Errors, inconsistencies, or omissions discovered at any time shall be promptly reported in writing to University's Representative.

3.1.3 If Contractor and its Subcontractors perform any construction activity involving an error, inconsistency, or omission referred to in Articles 3.1.1 and 3.1.2, without giving the notice required in those Articles and obtaining the written consent of University's Representative, Contractor shall be responsible for the resultant losses, including, without limitation, the costs of correcting Defective Work.

### **3.2 SUPERVISION AND CONSTRUCTION PROCEDURES**

3.2.1 Contractor shall supervise, coordinate, and direct the Work using Contractor's best skill and attention. Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Work.

3.2.2 Contractor shall be responsible to University for acts and omissions of Contractor's agents, employees, and Subcontractors, and their respective agents and employees.

3.2.3 Contractor shall not be relieved of its obligation to perform the Work in accordance with the Contract Documents either by acts or omissions of University or University's Representative in the administration of the Contract, or by tests, inspections, or approvals required or performed by persons or firms other than Contractor.

3.2.4 Contractor shall be responsible for inspection of all portions of the Work, including those portions already performed under this Contract, to determine that such portions conform to the requirements of the Contract and are ready to receive subsequent Work.

3.2.5 Contractor shall at all times maintain good discipline and order among its employees and Subcontractors. Contractor shall provide competent, fully qualified personnel to perform the Work.

### **3.3 LABOR AND MATERIALS**

3.3.1 Unless otherwise provided in the Contract, Contractor shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Final Completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

### **3.4 CONTRACTOR'S WARRANTY**

3.4.1 Contractor warrants to University that all materials and equipment used in or incorporated into the Work will be of good quality, new, and free of liens, claims, and security interests of third parties; that the Work will be of good quality and free from defects; and that the Work will conform with the requirements of the Contract. If required by University's Representative, Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

### **3.5 TAXES**

3.5.1 Contractor shall pay all sales, consumer, use, and similar taxes for the Work or portions thereof provided by Contractor.

### **3.6 PERMITS, FEES, AND NOTICES**

3.6.1 Except for the permits and approvals which are to be obtained by University or the requirements with respect to which University is not subject as provided in Article 2.1.2, Contractor shall secure and pay for all permits, approvals, government fees, licenses, and inspections necessary for the proper execution and performance of the Work. Contractor shall deliver to University all original licenses, permits, and approvals obtained by Contractor in connection with the Work prior to the final payment or upon termination of the Contract, whichever is earlier.

### **3.7 APPLICABLE CODE REQUIREMENTS**

3.7.1 Contractor shall perform the Work in accordance with the following Applicable Code Requirements:

- .1 All laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, Contractor, any Subcontractor, the Project, the Project site, the Work, or the prosecution of the Work.
- .2 All requirements of any insurance company issuing insurance required hereunder.
- .3 The Federal Occupational Safety and Health Act and all other Applicable Code Requirements relating to safety.
- .4 Applicable titles in the State of California Code of Regulations.
- .5 Applicable sections in the State of California Labor Code.
- .6 All Applicable Code Requirements relating to nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day.

Without limiting the foregoing, Contractor shall comply with the provisions regarding nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day set forth in Article 14.

3.7.2 Contractor shall comply with and give notices required by all Applicable Code Requirements, including all environmental laws and all notice requirements under the State of California Safe Drinking Water and Enforcement Act of 1986 (State of California Health and Safety Code Section 25249.5 and applicable sections that follow). Contractor shall promptly notify University's Representative in writing if Contractor becomes aware during the performance of the Work that the Contract Documents are at variance with Applicable Code Requirements.

3.7.3 If Contractor performs Work which it knows or should know is contrary to Applicable Code Requirements, without prior notice to University and University's Representative, Contractor shall be responsible for such Work and any resulting damages including, without limitation, the costs of correcting Defective Work.

### 3.8 SUPERINTENDENT

3.8.1 Contractor shall employ a competent Superintendent satisfactory to University who shall be in attendance at the Project site at all times during the performance of the Work. Superintendent shall represent Contractor and communications given to and received from Superintendent shall be binding on Contractor.

3.8.2 Failure to maintain a Superintendent on the Project site at all times Work is in progress shall be considered a material breach of this Contract, entitling University to terminate the Contract or alternatively, issue a stop work order until the Superintendent is on the Project site. If, by virtue of issuance of said stop work order, Contractor fails to complete the Contract on time, Contractor will be assessed Liquidated Damages in accordance with the Agreement.

3.8.3 The Superintendent approved for the Project must be able to read, write and verbally communicate in English.

3.8.4 The Superintendent may not perform the Work of any trade, pick-up materials, or perform any Work not directly related to the supervision and coordination of the Work at the Project site when Work is in progress.

### 3.9 SCHEDULES REQUIRED OF CONTRACTOR

3.9.1 Contractor shall submit a Preliminary Contract Schedule to University's Representative in the form and within the time limit required by the Specifications. University's Representative will review the Preliminary Contract Schedule with Contractor within the time limit required by the Specifications or, if no such time period is specified, within a reasonable period of time.

3.9.2 Contractor shall submit a Contract Schedule and updated Contract Schedules to University's Representative in the form and within the time limits required by the Specifications and acceptable to University's Representative. University's Representative will determine acceptability of the Contract Schedule and updated Contract Schedules within the time limits required by the Specifications or, if no such time period is specified, within a reasonable period of time. If University's Representative deems the Contract Schedule or updated Contract Schedule unacceptable, it shall specify in writing to Contractor the basis for its objection.

3.9.3 The Preliminary Contract Schedule, the Contract Schedule, and updated Contract Schedules shall represent a practical plan to complete the Work within the Contract Time. Schedules showing the Work completed in less than the Contract Time may be acceptable if judged by University's Representative to be practical. Schedules showing the Work completed beyond the Contract Time may be submitted under the following circumstances:

- .1 If accompanied by a Change Order Request seeking an adjustment of the Contract Time consistent the requirements of Article 8.4 for Adjustment of the Contract Time for Delay; or
- .2 If the Contract Time has passed, or if it is a practical impossibility to complete the Work within the Contract Time, then the updated Contract Schedule or fragnet schedule shall show completion at the earliest practical date.

University's Representative will timely review the updated Contract Schedule or Fragnet Schedule submitted by Contractor. If University's Representative determines that additional supporting data are necessary to fully evaluate the updated Contract Schedule or Fragnet Schedule, University's Representative will request such additional supporting data in writing. Such data shall be furnished no later than 10 days after the date of such request. University's Representative will render a decision promptly and in any case within 30 days after the later of the receipt of the updated Contract Schedule or Fragnet Schedule or the deadline for furnishing such additional supporting data. Failure of University's Representative to render a decision by the applicable deadline will be deemed a decision denying approval of the updated Contract Schedule or Fragnet Schedule. Acceptance of any schedule showing completion beyond the Contract Time by University's Representative shall not change the Contract Time and is without prejudice to any right of University. The Contract Time, not the Contract Schedule, shall control in the determination of liquidated damages payable by Contractor under Article 4 and Article 5 of the Agreement and in the determination of any delay under Article 8 of the General Conditions.

3.9.4 If a schedule showing the Work completed in less than the Contract Time is accepted, Contractor shall not be entitled to extensions of the Contract Time for Excusable Delays or Compensable Delays or to adjustments of the Contract Sum for Compensable Delays until such delays extend the Final Completion of the Work beyond the expiration of the Contract Time.

3.9.5 Contractor shall prepare and keep current, to the reasonable satisfaction of University's Representative, a Submittal Schedule, in the form contained in the Exhibits, for each submittal, as required by the Specifications, and that are coordinated with the other activities in the Contract Schedule.

3.9.6 The Preliminary Contract Schedule, Contract Schedule, and the Updated Contract Schedules shall meet the following requirements:

- .1 Schedules must be suitable for monitoring progress of the Work.
- .2 Schedules must provide necessary data about the timing for University decisions and University furnished items.
- .3 Schedules must be in sufficient detail to demonstrate adequate planning for the Work.
- .4 Schedules must represent a practical plan to perform and complete the Work within the Contract Time.

3.9.7 University's Representative's review of the form and general content of the Preliminary Contract Schedule, Contract Schedule, and Updated Contract Schedules is for the purpose of determining if the above-listed requirements have been satisfied.

3.9.8 Contractor shall plan, develop, supervise, control, and coordinate the performance of the Work so that its progress and the sequence and timing of Work will permit its completion within the Contract Time, any Contract milestones and any Contract phases.

3.9.9 In preparing the Preliminary Contract Schedule, the Contract Schedule, and updated Contract Schedules, Contractor shall obtain such information and data from Subcontractors as may be required to develop a reasonable and appropriate schedule for performance of the work and shall provide such information and data to University's Representative upon request. Contractor shall continuously obtain from Subcontractors information and data about the planning for and progress of the Work and the delivery of



equipment, shall coordinate and integrate such information and data into updated Contract Schedules, as appropriate, and shall monitor the progress of the Work and the delivery of equipment.

3.9.10 Contractor shall act as the expeditor of potential and actual delays, interruptions, hindrances, or disruptions for its own forces and those forces of Subcontractors, regardless of tier.

3.9.11 Contractor shall cooperate with University's Representative in the development of the Contract Schedule and updated Contract Schedules. University's Representative's acceptance of or its review comments about any schedule or scheduling data shall not relieve Contractor from its sole responsibility to plan for, perform, and complete the Work within the Contract Time. Acceptance of or review comments about any schedule shall not transfer responsibility for any schedule to University's Representative or University nor imply their agreement with (1) any assumption upon which such schedule is based or (2) any matter underlying or contained in such schedule. Failure of University's Representative to discover errors or omissions in schedules that it has reviewed, or to inform Contractor that Contractor, Subcontractors, or others are behind schedule, or to direct or enforce procedures for complying with the Contract Schedule shall not relieve Contractor from its sole responsibility to perform and complete the Work within the Contract Time and shall not be a cause for an adjustment of the Contract Time or the Contract Sum.

### 3.10 AS-BUILT DOCUMENTS

3.10.1 Contractor shall maintain one set of As-built drawings and specifications, which shall be kept up to date during the Work of the Contract. All changes which are incorporated into the Work which differ from the documents as drawn and written shall be noted on the As-built set. Notations shall reflect the actual materials, equipment and installation methods used for the Work and each revision shall be initialed and dated by Superintendent. Prior to filing of the Notice of Completion each drawing and the specification cover shall be signed by Contractor and dated attesting to the completeness of the information noted therein. As-built Documents shall be turned over to University's Representative and shall become part of the Record Documents.

### 3.11 DOCUMENTS AND SAMPLES AT PROJECT SITE

3.11.1 Contractor shall maintain the following at the Project site:

- .1 One as-built copy of the Contract Documents, in good order and marked to record current changes and selections made during construction.
- .2 The current accepted Contract Schedule.
- .3 Shop Drawings, Product Data, and Samples.
- .4 All other required submittals.

These shall be available to University's Representative and shall be delivered to University's Representative for submittal to University upon the earlier of Final Completion or termination of the Contract.

### 3.12 SHOP DRAWINGS, PRODUCT DATA, SAMPLES, AND ENVIRONMENTAL PRODUCT DECLARATIONS

3.12.1 Definitions:

- .1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by Contractor or a Subcontractor to illustrate some portion of the Work.
- .2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by Contractor to illustrate or describe materials or equipment for some portion of the Work.
- .3 Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Work will be judged.
- .4 Environmental Product Declarations are those documents and other submissions required to be furnished by Contractor or a Subcontractor pursuant to California Public Contract Code Section 3500 et seq., the Buy Clean California Act (BCCA), as further described in Article 3.12.9 below.

3.12.2 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate, for those portions of the Work for which submittals are required, how Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

3.12.3 Contractor shall review, approve, and submit to University's Representative Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of University or of Separate Contractors. Submittals made by Contractor which are not required by the Contract Documents may be returned without action by University's Representative.

3.12.4 Contractor shall perform no portion of the Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been reviewed by University's Representative and no exceptions have been taken by University's Representative. Such Work shall be in accordance with approved submittals and the Contract Documents.

3.12.5 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, Contractor represents that it has determined or verified materials and field measurements and conditions related thereto, and that it has checked and coordinated the information contained within such submittals with the requirements of the Contract Documents and Shop Drawings for related Work.

3.12.6 If Contractor discovers any conflicts, omissions, or errors in Shop Drawings or other submittals, Contractor shall notify University's Representative and receive instruction before proceeding with the affected Work.

3.12.7 Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by University's Representative's review of Shop Drawings, Product Data, Samples, or similar submittals, unless Contractor has specifically informed University's Representative in writing of such deviation at the time of submittal and University's Representative has given written

approval of the specific deviation. Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by University's Representative's review, acceptance, comment, or approval thereof.

3.12.8 Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by University's Representative on previous submittals.

3.12.9 Environmental Product Declarations

3.12.9.1 Contractor on construction contracts \$1,000,000 and above shall comply with California Public Contract Code Section 3500 et seq., the Buy Clean California Act ("BCCA").

3.12.9.2 Compliance with the BCCA and this Article applies to all Eligible Materials for the Project.

See Supplementary Conditions

### 3.13 USE OF SITE AND CLEAN UP

3.13.1 Contractor shall confine operations at the Project site to areas permitted by law, ordinances, permits, and the Contract Documents. Contractor shall not unreasonably encumber the Project site with materials or equipment.

3.13.2 Contractor shall, during performance of the Work, keep the Project site and surrounding area free from the accumulation of excess dirt, waste materials, and rubbish caused by Contractor. Contractor shall remove all excess dirt, waste material, and rubbish caused by Contractor; tools; equipment; machinery; and surplus materials from the Project site and surrounding area at the completion of the Work.

3.13.3 Personnel of Contractor and Subcontractors shall not occupy, live upon, or otherwise make use of the Project site during any time that Work is not being performed at the Project site, except as otherwise provided in the Contract Documents.

### 3.14 CUTTING, FITTING, AND PATCHING

3.14.1 Contractor shall do all cutting, fitting, or patching of the Work required to make all parts of the Work come together properly and to allow the Work to receive or be received by work of Separate Contractors shown upon, or reasonably implied by, the Contract Documents.

3.14.2 Contractor shall not endanger the Work, the Project, or adjacent property by cutting, digging, or otherwise. Contractor shall not cut or alter the work of any Separate Contractor without the prior consent of University's Representative.

### 3.15 ACCESS TO WORK

3.15.1 University, University's Representative, their consultants, and other persons authorized by University will at all times have access to the Work wherever it is in preparation or progress. Contractor shall provide safe and proper facilities for such access and for inspection.

### 3.16 ROYALTIES AND PATENTS

3.16.1 Contractor shall pay all royalties and license fees required for the performance of the Work. Contractor shall defend suits or claims resulting from Contractor's or any Subcontractor's infringement of patent rights and shall indemnify, defend and hold harmless University and University's Representative from losses on account thereof.

### 3.17 DIFFERING SITE CONDITIONS

3.17.1 If Contractor encounters any of the following conditions at the site, Contractor shall immediately notify University's Representative in writing of the specific differing conditions before they are disturbed and before any affected Work is performed, and permit investigation of the conditions:

- .1 Subsurface or latent physical conditions at the site (including Hazardous Materials) which differ materially from those indicated in this Contract, or if not indicated in this Contract, in the Information Available to Bidders; or
- .2 Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

3.17.2 Contractor shall be entitled to an adjustment to the Contract Sum and/or Contract Time as the result of extra costs and/or delays resulting from a materially differing site condition, if and only if Contractor fulfills the following conditions:

- .1 Contractor fully complies with Article 3.17.1; and
- .2 Contractor fully complies with Article 4 (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).

3.17.3 Adjustments to the Contract Sum and/or Contract Time shall be subject to the procedures and limitations set forth in Articles 7 and 8.

### 3.18 CONCEALED, UNFORESEEN, OR UNKNOWN CONDITIONS OR EVENTS

3.18.1 Except and only to the extent provided otherwise in Articles 3.17, 7 and 8 of the General Conditions, by signing the Agreement, Contractor agrees:

- .1 To bear the risk of concealed, unforeseen or unknown conditions or events, if any, which may be encountered in performing the Contract; and
- .2 That Contractor's bid for the Contract was made with full knowledge of this risk.

In agreeing to bear the risk of concealed, unforeseen or unknown conditions or events, Contractor understands that, except and only to the extent provided otherwise in Articles 3.17, 7 and 8, concealed, unforeseen or unknown conditions or events shall not excuse Contractor from its obligation to achieve Final Completion of the Work within the Contract Time, and shall not entitle Contractor to an adjustment of the Contract Sum.

3.18.2 If Contractor encounters concealed, unforeseen or unknown conditions or events that may require a change to the design shown in the Contract Documents, Contractor shall immediately notify University's Representative in writing such that University's Representative can determine if a change to the design is required. Contractor shall be liable to University for any extra costs incurred as the result of Contractor's failure to immediately give such notice.

3.18.3 If, as the result of concealed, unforeseen or unknown conditions or events, University issues a Change Order or Field Order that changes the design from the design depicted in the Contract Documents, Contractor shall be entitled, subject to compliance with all the provisions of the Contract, including those set forth in Articles 4, 7 and 8, to an adjustment of the Contract Sum and/or Contract Time, for the cost and delay resulting from implementing the changes to the design. Except as provided in this Article 3.18.3, or as may be expressly provided otherwise in the Contract, there shall be no adjustment of the Contract Sum and/or Contract Time as a result of concealed, unforeseen or unknown conditions or events.

3.18.4 Contractor shall, as a condition precedent to any adjustment in Contract Sum or Contract Time under Article 3.18.3, fully comply with Article 4 (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).

### **3.19 HAZARDOUS MATERIALS**

3.19.1 University shall not be responsible for any Hazardous Material brought to the site by Contractor.

3.19.2 If Contractor: (i) introduces and/or discharges a Hazardous Material onto the site in a manner not specified by the Contract Documents; and/or (ii) disturbs a Hazardous Material identified in the Contract Documents, Contractor shall hire a qualified remediation contractor at Contractor's sole cost to eliminate the condition as soon as possible. Under no circumstance shall Contractor perform Work for which it is not qualified. University, in its sole discretion, may require Contractor to retain at Contractor's cost an independent testing laboratory.

3.19.3 If Contractor encounters a Hazardous Material which may cause foreseeable injury or damage, Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such material or substance (except in an emergency situation); and (iii) notify University (and promptly thereafter confirm such notice in writing).

3.19.4 Subject to Contractor's compliance with Article 3.19.3, University shall verify the presence or absence of the Hazardous Material reported by Contractor, except as qualified under Section 3.19.1 and 3.19.2, and, in the event such material or substance is found to be present, verify that the levels of the hazardous material are below OSHA Permissible Exposure Levels and below levels which would classify the material as a state of California or federal hazardous waste. When the material falls below such levels, Work in the affected area shall resume upon direction by University. The Contract Time and Sum shall be extended appropriately as provided in Articles 7 and 8.

3.19.5 University shall indemnify and hold harmless Contractor from and against claims, damages, losses and expenses, arising from a Hazardous Material on the Project site, if such Hazardous Material: (i) was not shown on the Contract Documents or Information Available to Bidders; (ii) was not brought to the site by Contractor; and (iii) exceeded OSHA Permissible Exposure Levels or levels which would classify the material as a state of California or federal hazardous waste. The indemnity obligation in this Article shall not apply to:

- .1 claims, damages, losses or expenses arising from the breach of contract, negligence or willful misconduct of Contractor, its suppliers, its Subcontractors of all tiers and/or any persons or entities working under Contractor; and
- .2 claims, damages, losses or expenses arising from a Hazardous Material subject to Article 3.19.2.

3.19.6 In addition to the requirements in Article 3.22, Contractor shall indemnify and hold harmless the University from and against claims, damages, losses and expenses, arising from a Hazardous Material on the Project site, if such Hazardous Material exceeded OSHA Permissible Exposure Levels or levels which would classify the material as a state of California or federal hazardous waste, and was either i) shown on the Contract Documents or Information Available to Bidders; or (ii) brought to the site by Contractor. Nothing in this paragraph shall obligate the Contractor to indemnify University in the event of the sole negligence of the University, its officers, agents, or employees.

### **3.20 INFORMATION AVAILABLE TO BIDDERS**

3.20.1 Any information provided pursuant to Information Available to Bidders is subject to the following provisions:

- .1 The information is made available for the convenience of Bidders and is not a part of the Contract.
- .2 Contractor may rely on written descriptions of physical conditions included in the information to the extent such reliance is reasonable.
- .3 Other components of the information, including but not limited to recommendations, may not be relied upon by Contractor. University shall not be responsible for any interpretation of or conclusion drawn from the other components of the information by Contractor.

### **3.21 LIABILITY FOR AND REPAIR OF DAMAGED WORK**

3.21.1 Contractor shall be liable for any and all damages and losses to the Project (whether by fire, theft, vandalism, earthquake or otherwise) prior to University's acceptance of the Project as fully completed except that Contractor shall not be liable for damages and losses to the Project caused by earthquake in excess of magnitude 3.5 on the Richter Scale, tidal wave, or flood, provided that the damages or losses were not caused in whole or in part by the negligent acts or omissions of Contractor, its officers, agents or employees

(including all Subcontractors and suppliers of all tiers). As used herein, "flood" shall have the same meaning as in the builder's risk property insurance.

3.21.2 Contractor shall promptly repair and replace any Work or materials damaged or destroyed for which Contractor is liable under Article 3.21.1.

### **3.22 INDEMNIFICATION**

3.22.1 Contractor shall indemnify, defend and hold harmless University, University's consultants, University's Representative, University's Representative's consultants, and their respective directors, officers, agents, and employees from and against losses (including without limitation the cost of repairing defective work and remedying the consequences of defective work) arising out of, resulting from, or relating to the following:

- .1 The failure of Contractor to perform its obligations under the Contract.
- .2 The inaccuracy of any representation or warranty by Contractor given in accordance with or contained in the Contract Documents.
- .3 Any claim of damage or loss by any Subcontractor against University arising out of any alleged act or omission of Contractor or any other Subcontractor, or anyone directly or indirectly employed by Contractor or any Subcontractor.
- .4 Any claim of damage or loss resulting from Hazardous Materials introduced, discharged, or disturbed by Contractor as required per Article 3.19.6.

3.22.2 University shall not be liable or responsible for any accidents, loss, injury (including death) or damages happening or accruing during the term of the performance of the Work herein referred to or in connection therewith, to persons and/or property, and Contractor shall fully indemnify, defend and hold harmless University and protect University from and against the same as provided in Article 3.22.1 above. In addition to the liability imposed by law upon Contractor for damage or injury (including death) to persons or property by reason of the negligence of Contractor, its officers, agents, employees or Subcontractors, which liability is not impaired or otherwise affected hereby, Contractor shall defend, indemnify, hold harmless, release and forever discharge University, its officers, employees, and agents from and against and waive any and all responsibility of same for every expense, liability, or payment by reason of any damage or injury (including death) to persons or property suffered or claimed to have been suffered through any negligent act, omission, or willful misconduct of Contractor, its officers, agents, employees, or any of its Subcontractors, or anyone directly or indirectly employed by either of them or from the condition of the premises or any part of the premises while in control of Contractor, its officers, agents, employees, or any of its Subcontractors or anyone directly or indirectly employed by either of them, arising out of the performance of the Work called for by this Contract. Contractor agrees that this indemnity and hold harmless shall apply even in the event of negligence of University, its officers, agents, or employees, regardless of whether such negligence is contributory to any claim, demand, loss, damage, injury, expense, and/or liability; but such indemnity and hold harmless shall not apply (i) in the event of the sole negligence of University, its officers, agents, or employees; or (ii) to the extent that University shall indemnify and hold harmless Contractor for Hazardous Materials pursuant to Article 3.19.5.

3.22.3 In claims against any person or entity indemnified under this Article 3.22 that are made by an employee of Contractor or any Subcontractor, a person indirectly employed by Contractor or any Subcontractor, or anyone for whose acts Contractor or any Subcontractor may be liable, the indemnification obligation under this Article 3.22 shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for Contractor or any Subcontractor under Workers' Compensation acts, disability benefit acts, or other employee benefit acts.

3.22.4 The indemnification obligations under this Article 3.22 shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

3.22.5 Contractor shall indemnify University from and against Losses resulting from any claim of damage made by any Separate Contractor against University arising out of any alleged acts or omissions of Contractor, any Subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

3.22.6 Contractor shall indemnify Separate Contractors from and against Losses arising out of the negligent acts, omissions, or willful misconduct of Contractor, any Subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

## **ARTICLE 4** **ADMINISTRATION OF THE CONTRACT**

### **4.1 ADMINISTRATION OF THE CONTRACT BY UNIVERSITY'S REPRESENTATIVE**

4.1.1 University's Representative will provide administration of the Contract as provided in the Contract Documents and will be the representative of University. University's Representative will have authority to act on behalf of University only to the extent provided in the Contract Documents.

4.1.2 University's Representative will have the right to visit the Project site at such intervals as deemed appropriate by University's Representative. However, no actions taken during such Project site visit by University's Representative shall relieve Contractor of its obligations as described in the Contract Documents.

4.1.3 University's Representative will not have control over, will not be in charge of, and will 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 Contractor's responsibility.

4.1.4 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, University and Contractor shall communicate through University's Representative. Except when direct communication has been specifically authorized in writing by University Representative, communications by Contractor with University's consultants and

University's Representative's consultants shall be through University's Representative. Communications by University and University's Representative with Subcontractors will be through Contractor. Communications by Contractor and Subcontractors with Separate Contractors shall be through University's Representative. Contractor shall not rely on oral or other non-written communications.

4.1.5 Based on University's Representative's Project site visits and evaluations of Contractor's Applications for Payment, University's Representative will recommend amounts, if any, due Contractor and will issue Certificates for Payment in such amounts.

4.1.6 University's Representative will have the authority to reject the Work, or any portion thereof, which does not conform to the Contract Documents. University's Representative will have the authority to stop the Work or any portion thereof. Whenever University's Representative considers it necessary or advisable for implementation of the intent of the Contract Documents, University's Representative will have the authority to require additional inspection or testing of the Work in accordance with the Contract Documents, whether or not such Work is fabricated, installed, or completed. However, no authority of University's Representative conferred by the Contract Documents nor any decision made in good faith either to exercise or not exercise such authority, will give rise to a duty or responsibility of University or University's Representative to Contractor, or any person or entity claiming under or through Contractor.

4.1.7 University's Representative will have the authority to conduct inspections as provided in the Contract Documents, to take Beneficial Occupancy and to determine the dates of Substantial Completion and Final Completion; will receive for review and approval any records, written warranties, and related documents required by the Contract Documents and assembled by Contractor; and will issue a final Certificate for Payment upon Contractor's compliance with the requirements of the Contract Documents.

4.1.8 University's Representative will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of performance thereunder by Contractor. Should Contractor discover any conflicts, omissions, or errors in the Contract Documents; have any questions about the interpretation or clarification of the Contract Documents; question whether Work is within the scope of the Contract Documents; or question that Work required is not sufficiently detailed or explained, then, before proceeding with the Work affected, Contractor shall notify University's Representative in writing and request interpretation, clarification, or furnishing of additional detailed instructions. University's Representative's response to questions and requests for interpretations, clarifications, instructions, or decisions will be made with reasonable promptness. Should Contractor proceed with the Work affected before receipt of a response from University's Representative, any portion of the Work which is not done in accordance with University's Representative's interpretations, clarifications, instructions, or decisions shall be removed or replaced and Contractor shall be responsible for all resultant losses.

## 4.2 CONTRACTOR CHANGE ORDER REQUESTS

4.2.1 Contractor may request changes to the Contract Sum and/or Contract Time for Extra Work, materially differing site conditions, or Delays to Final Completion of the Work.

4.2.2 Conditions precedent to obtaining an adjustment of the Contract Sum and/or Contract Time, payment of money, or other relief with respect to the Contract Documents, for any other reason, are:

- .1 Timely submission of a Change Order Request that meets the requirements of Articles 4.2.3.1 and 4.2.3.2; and
- .2 If requested, timely submission of additional information requested by University Representative pursuant to Article 4.2.3.3.

4.2.3 Change Order Request:

- .1 A Change Order Request will be deemed timely submitted if, and only if, it is submitted within 7 days of the date Contractor discovers, or reasonably should discover the circumstances giving rise to the Change Order Request, unless additional time is allowed in writing by University's Representative for submission of the Change Order Request, provided that if:
  - .1 the Change Order Request includes compensation sought by a Subcontractor; AND
  - .2 Contractor requests in writing to University's Representative, within the 7-day time period, additional time to permit Contractor to conduct an appropriate review of the Subcontractor Change Order Request, the time period for submission of the actual Change Order Request shall be extended by the number of days specified in writing by University's Representative.
- .2 A Change Order Request must state that it is a Change Order Request, state and justify the reason for the request, and specify the amount of any requested adjustment of the Contract Sum, Contract Time, and/or other monetary relief. If Contractor requests an adjustment to the Contract Sum or other monetary relief, Contractor shall submit the following with the Change Order Request:
  - .1 a completed Cost Proposal in the form contained in the Exhibits meeting the requirements of Article 7; OR
  - .2 a partial Cost Proposal and a declaration of what required information is not then known to Contractor. If Contractor failed to submit a completed Cost Proposal with the Change Order Request, Contractor shall submit a completed Cost Proposal meeting the requirements of Article 7 within 7 days of the date Contractor submitted the Change Order Request unless additional time is allowed by University's Representative.
- .3 Upon request of University's Representative, Contractor shall submit such additional information as may be requested by University's Representative for the purpose of evaluating the Change Order Request. Such additional information may include:
  - .1 If Contractor seeks an adjustment of the Contract Sum or other monetary relief, actual cost records for any changed or extra costs (including without limitation, payroll records, material and rental invoices and the like), shall be submitted by the deadline established by University's Representative, who may require such actual cost records to be submitted and reviewed, on a daily basis, by University's Representative and/or representatives of University's Representative.
  - .2 If Contractor seeks an adjustment of the Contract Time, written documentation demonstrating Contractor's entitlement to a time extension under Article 8.4, which shall be submitted within 15 days of the date

- requested. If requested, Contractor may submit a fragnet in support of its request for a time extension. University may, but is not obligated to, grant a time extension on the basis of a fragnet alone which, by its nature, is not a complete schedule analysis. If deemed appropriate by University's Representative, Contractor shall submit a more detailed schedule analysis in support of its request for a time extension.
- .3 If Contractor seeks an adjustment of the Contract Sum or other monetary relief for delay, written documentation demonstrating Contractor's entitlement to such an adjustment under Article 7.3.9, which shall be submitted within 15 days of the date requested.
  - .4 Any other information requested by University's Representative for the purpose of evaluating the Change Order Request, which shall be submitted by the deadline established by University's Representative.

4.2.4 University's Representative will make a decision on a Change Order Request within a reasonable time after receipt of a Change Order Request. In the event the Change Order Request is submitted pursuant to Article 8.4.1, University's Representative will promptly review and accept or reject it within 30 days. A final decision is any decision on a Change Order Request which states that it is final. If University's Representative issues a final decision denying a Change Order Request in whole or in part, Contractor may contest the decision by filing a timely Claim under the procedures specified in Article 4.4.

4.2.5 Contractor may file a written demand for a final decision by University's Representative on all or part of any Change Order Request as to which University's Representative has not previously issued a final decision pursuant to Article 4.2.4; such written demand may not be made earlier than the 30th day after submission of the Change Order Request. Within 30 days of receipt of the demand, University's Representative will issue a final decision on the Change Order Request. University's Representative's failure to issue a decision within the 30-day period shall be treated as the issuance, on the last day of the 30-day period, of a final decision to deny the Change Order Request in its entirety.

### 4.3 CLAIMS

4.3.1 The term "Claim" means a written demand or assertion by Contractor seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time, or other relief with respect to the Contract Documents, including a determination of disputes or matters in question between University and Contractor arising out of or related to the Contract Documents or the performance of the Work. However, the term "Claim" shall not include, and the Claims procedures provided under this Article 4, including but not limited to arbitration, shall not apply to the following:

- .1 Claims respecting penalties for forfeitures prescribed by statute or regulation which a government agency is specifically authorized to administer, settle, or determine.
- .2 Claims respecting personal injury, death, reimbursement, or other compensation arising out of or resulting from liability for personal injury or death.
- .3 Claims by University, except as set forth in Articles 4.5, 4.6 and 4.7.
- .4 Claims respecting stop payment notices.

4.3.2 A Claim arises upon the issuance of a written final decision denying in whole or in part Contractor's Change Order Request pursuant to Articles 4.2.4 and 4.2.5.

4.3.3 A Claim must include the following:

- .1 A statement that it is a Claim and a request for a decision pursuant to Article 4.5.
- .2 A detailed factual narrative of events fully describing the nature and circumstances giving rise to the Claim, including but not limited to, necessary dates, locations, and items of work affected.
- .3 A certification, executed by Contractor, that the claim is filed in good faith. The certification must be made on the Claim Certification form, included in the Exhibits to the Contract. The language of the Claim Certification form may not be modified.
- .4 A certification, executed by each Subcontractor claiming not less than 5% of the total monetary amount sought by the claim, that the subcontractor's portion of the claim is filed in good faith. The certification must be made on the Claim Certification form, included in the Exhibits to the Contract. The language of the Claim Certification form may not be modified.
- .5 A statement demonstrating that a Change Order Request was timely submitted as required by Article 4.2.3
- .6 If a Cost Proposal or declaration was required by Article 4.2.3, a statement demonstrating that the Cost Proposal or the declaration was timely submitted as required by Article 4.2.3.
- .7 A detailed justification for any remedy or relief sought by the Claim, including to the extent applicable, the following:
  - .1 If the Claim involves Extra Work, a detailed cost breakdown of the amounts claimed, including the items specified in Article 7.3.2. An estimate of the costs must be provided even if the costs claimed have not been incurred when the Claim is submitted. To the extent costs have been incurred when the Claim is submitted, the Claim must include actual cost records (including without limitation, payroll records, material and rental invoices and the like) demonstrating that costs claimed have actually been incurred. To the extent costs have not yet been incurred at the time the Claim is submitted, actual cost records must be submitted on a current basis not less than once a month during any periods costs are incurred. A cost record will be considered current if submitted within 30 days of the date the cost reflected in the record is incurred. At the request of University's Representative, claimed extra costs may be subject to further verification procedures (such as having an inspector verify the performance of alleged Extra Work on a daily basis). The cost breakdown must include an itemization of costs for i) labor including workers' names, classifications, regular hours and overtime hours worked, dates worked, and other pertinent information; ii) materials stored or incorporated in the work including invoices, purchase orders, location of materials either stored or incorporated into the work, dates

- materials were transported to the project or incorporated into the work, and other pertinent information; and iii) itemization of machinery and equipment including make, model, hours of use, dates of use and equipment rental rates of any rented equipment.
- .2 If the Claim involves an extension of the Contract Time, written documentation demonstrating Contractor's entitlement to a time extension under Article 8.4, including the specific dates for which a time extension is sought and the specific reasons for entitlement of a time extension.
  - .3 If the Claim involves an adjustment of the Contract Sum for delay, written documentation demonstrating Contractor's entitlement to such an adjustment under Article 7.3.9, including but not limited to, a detailed time impact analysis of the Contract Schedule. The Contract Schedule must demonstrate Contractor's entitlement to such an adjustment under Article 7.3.9.

#### 4.4 ASSERTION OF CLAIMS

4.4.1 Claims by Contractor shall be first submitted to University's Representative for decision.

4.4.2 Notwithstanding the making of any Claim or the existence of any dispute regarding any Claim, unless otherwise directed by University's Representative, Contractor shall not cause any delay, cessation, or termination in or of Contractor's performance of the Work, but shall diligently proceed with performance of the Work in accordance with the Contract Documents.

4.4.3 Contractor shall submit a Claim in writing, together with all supporting data specified in Article 4.3.3, to University's Representative as soon as possible but not later than 30 days after the date the Claim arises under Article 4.3.2, provided that after written notification to University's Representative within such time period, the time period for submission of the Claim shall be extended by the number of days specified in writing by University's Representative where the Claim includes compensation sought by a Subcontractor and Contractor requests an extension of time to permit it to discharge its responsibilities to conduct an appropriate review of the Subcontractor claim.

4.4.4 Strict compliance with the requirements of Articles 4.2, 4.3 and 4.4 are conditions precedent to Contractor's right to an informal conference to meet and confer to resolve a Claim, mediate a Claim, or arbitrate or litigate a Claim. Contractor specifically agrees to assert no Claims via an informal conference, mediation, arbitration or litigation unless there has been strict compliance with Articles 4.2, 4.3, and 4.4. The failure of Contractor to strictly comply with the requirements of Articles 4.2, 4.3 and 4.4 constitutes a failure by Contractor to exhaust its administrative remedies with the University, thereby denying any court or arbitration panel of jurisdiction to adjudicate the Claim.

#### 4.5 DECISION OF UNIVERSITY'S REPRESENTATIVE ON CLAIMS

4.5.1 University's Representative will timely review Claims submitted by Contractor. If University's Representative determines that additional supporting data are necessary to fully evaluate a Claim, University's Representative will request such additional supporting data in writing. Such data shall be furnished no later than 10 days after the date of such request. University's Representative will render a decision promptly and in any case within 30 days after the later of the receipt of the Claim or the deadline for furnishing such additional supporting data; provided that, if the amount of the Claim is in excess of \$50,000, the aforesaid 30-day period shall be 45 days. Failure of University's Representative to render a decision by the applicable deadline will be deemed a decision denying the Claim on the date of the deadline, unless, upon receipt of a Claim, Contractor and University mutually agree to extend the time periods provided herein, or unless otherwise extended by law. The decision of University's Representative will be final and binding unless appealed in accordance with Articles 4.5.2, 4.6, and 4.7. The University's Representative's decision on a Claim or dispute will include a written statement both identifying all disputed and undisputed portions of the Claim and substantially including the following:

"This is a decision under Article 4.5 of the General Conditions of your contract. If you are dissatisfied with the decision, and if you complied with the procedural requirements for asserting claims specified in Article 4 of the General Conditions of your contract, you may have the right to demand in writing an informal conference to meet and confer for settlement of any remaining issues in dispute, following which, if still dissatisfied, you may demand in writing a further resolution via nonbinding mediation, after which you have the right to arbitrate or litigate this decision. If you fail to take appropriate action within 30 days of the date of this decision, the decision shall become final and binding and not subject to further appeal."

4.5.2 If either Contractor or University disputes University's Representative's decision on a Claim, then, within 30 days after the decision of University's Representative on the Claim, or, if no decision has been issued, within 30 days from the date of the applicable deadline in Article 4.5.1 for University Representative to render a decision, such party (the "Disputing Party") must provide written notice demanding an informal conference to meet and confer. University shall schedule the conference within 30 days upon receipt of the notice demanding an informal conference. The parties will attempt in good faith to resolve any controversy or Claim arising out of or relating to this Contract by negotiation at the conference.

#### 4.6 MEDIATION

4.6.1 Within 10 business days following the informal conference to meet and confer stated in Article 4.5.2, if the Claim or any portion of the Claim remains in dispute, the University shall provide a written statement identifying the disputed and undisputed portions of the Claim. Within 30 days of receipt of the statement, if either Contractor or University disputes any portion of the Claim, then the Disputing Party must provide written notice to the non-disputing party demanding non-binding mediation. The Contractor and the University shall share the associated costs equally and shall mutually agree to a mediator within 10 business days. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim, with each party bearing the fees and costs of its respective mediator. Mediation shall include, but not be limited to, neutral evaluation, a dispute review board, or other negotiation or evaluation through an independent third party or board. The Contractor and the University may mutually agree to waive any individual mediation in writing and proceed to arbitration or litigation pursuant to this Contract.

#### 4.7 LITIGATION AND ARBITRATION

4.7.1 Either party may provide a written notice of its election to arbitrate or provide written notice of its election to litigate the Claim within 30 days after the mediation pursuant to Article 4.6.1, or, if the parties mutually agreed in writing to waive mediation, within 30 days after the agreement is signed by both parties.

4.7.2 If a notice of election to arbitrate or litigate is not given by either party within 30 days pursuant to Article 4.7.1, University's Representative's decision on the Claim will be final and binding and not subject to appeal or challenge.

4.7.3 If the Disputing Party gives timely notice of its election to arbitrate the University's Representative's decision on a Claim, Disputing Party shall have the right, within 120 days after a Notice of Completion, or a Notice of Cessation, as applicable, is filed for the Contract, to make a demand for arbitration in accordance with Article 4.7. Failure to perfect a Claim for which a timely election to arbitrate has been made by the timely filing of a demand for arbitration and timely payment of all applicable and required fees to the American Arbitration Association ("AAA") shall result in the University's Representative's decision on said Claim becoming final and binding and not subject to appeal or challenge. If the Disputing Party makes a timely demand for arbitration, and the amount of the Claim in question, when combined with all other Claims, if any, which are the subject of previously filed demands for arbitration that have not been resolved by settlement or arbitration award, is \$100,000 or more, then the other party may elect to litigate all such Claims by filing a written notice with the AAA within 30 days after its receipt of notice from the AAA of the Disputing Party's demand for arbitration of the Claim that raises the total amount of Claims subject to arbitration to \$100,000 or more. If the other party fails to give notice of its election to litigate within such 30-day period, it shall be deemed to have consented to arbitration and waived the right to litigate. If after commencement of arbitration the amount of unresolved Claims in arbitration are allowed to be increased to \$100,000 or more, through an AAA-allowed amendment or otherwise, either party may elect to litigate within 30 days following the date that the electing party first receives written notification from the AAA that total Claims in arbitration equal or exceed \$100,000. If neither party gives notice of its election to litigate within such 30-day period as applicable, then both parties shall be deemed to have consented to arbitration and waived the right to litigate..

4.7.4 A demand for arbitration pursuant to Article 4.7.3 shall include a copy of the Claim presented to University's Representative pursuant to Article 4.4, a copy of the decision of University's Representative pursuant to Article 4.5, if any, a copy of the University's written statement identifying the portion of the Claim that remained in dispute following the informal conference pursuant to Article 4.6.1, and a summary of the remaining portions of the Claim in dispute. The demand shall state the amount in controversy, if any, and state the remedy sought. The demand shall identify the University's Responsible Administrator as the representative of the responding party and the Office of the General Counsel as counsel for the responding party. The demand shall be filed with the AAA and shall not be deemed to have been made until all applicable fees have been paid to the AAA by the demanding party. Copies of the demand and attachments shall be sent to University's Responsible Administrator as the representative of the responding party and the University's Office of General Counsel as attorney for the responding party, at the addresses set forth in the Project Directory, at the time the demand for arbitration is initiated with the AAA.

4.7.5 Except as modified by this Article 4.7, arbitration shall be initiated and conducted in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. The following additional modifications shall be made to the aforesaid AAA rules:

- .1 Civil discovery shall be permitted for the production of documents and taking of depositions. Other discovery may be permitted at the discretion of the arbitrator. All disputes regarding discovery shall be decided by the arbitrator.
- .2 University's Representative and/or University's consultants, shall if required by agreement with University, upon demand by University join in and be bound by the Arbitration. University's Representative and University's consultants will have the same rights in any arbitration proceeding as are afforded by the AAA rules to Contractor and University.
- .3 Contractor's sureties shall be bound by any arbitration award and may join in any arbitration proceeding.
- .4 Except as provided in Articles 4.7.5.2.2. and 4.7.25.3 above, no Subcontractor or other person shall have a right or obligation to join in or be a party to any arbitration proceeding provided for in this Article 4 either directly, by joinder, by consolidation or actions, by counterclaim or crossclaim, or otherwise without the express written consent of University, Contractor, and the joining party.
- .5 If more than one demand for arbitration is made by a party with respect to Claims referred to University's Representative, all such Claims shall be consolidated into a single arbitration unless the parties otherwise agree in writing.
- .6 If total Claims are less than \$50,000, the AAA expedited procedures as modified by this Article 4 shall apply. If total Claims are between \$50,000 and \$100,000 they shall be heard by a single arbitrator who shall be an attorney. If total Claims are in excess of \$100,000 and are submitted to arbitration, either by agreement or by failure to elect litigation the controversy shall be heard by a panel of three arbitrators, one of which shall be an attorney.
- .7 No arbitrator shall be appointed and no discovery may be commenced prior to the date of Final Completion unless University and Contractor otherwise agree.
- .8 The exclusive forum for determining arbitrability shall be the Superior Court of the State of California. The AAA shall not submit to any arbitrator any matter concerning the arbitrability of the dispute if the arbitrability is contested.
- .9 If the expedited procedures of the AAA are applicable, the AAA shall submit simultaneously to each party an identical list of 7 proposed arbitrators drawn from the National Panel of Commercial Arbitrators, and each party may strike 3 names from the list on a peremptory basis and return the list to the AAA within 10 days from the date of receipt.
- .10 Except as provided herein, the arbitration shall be conducted and enforced under California law, including the California Arbitration Act (California Code of Civil Procedure section 1280 and following). The Federal Arbitration Act shall not apply to the arbitration.



4.7.6 Unless University and Contractor otherwise agree in writing, the arbitration decision shall be binding upon the parties, made under and in accordance with the laws of the State of California, supported by substantial evidence, and in writing. If the total of all Claims or cross Claims submitted to arbitration is in excess of \$50,000, the award shall contain the basis for the decision, findings of fact, and conclusions of law. Any arbitration award shall be subject to confirmation, vacation, or correction under the procedures and on the grounds specified in the California Code of Civil Procedure including without limitation Section 1296. The expenses and fees of the arbitrators and the administrative fees of the AAA shall be divided among the parties equally. Each party shall pay its own counsel fees, witness fees, and other expenses incurred for its own benefit.

4.7.7 University may, but is not required, to assert as a counterclaim any matter arising out of the claims asserted by Contractor in the arbitration. University's failure to assert any such counterclaim in an arbitration shall be without prejudice to the University's right to assert the counterclaim in litigation or other proceeding.

4.7.8 Any litigation shall be filed in the Superior Court of the State of California for the County in which the contract was to be performed.

#### **4.8 WAIVER**

4.8.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 4 in connection with any Claim shall not constitute a waiver of, and shall not preclude University or University's Representative from enforcing such requirements in connection with any other Claims.

4.8.2 Contractor agrees and understands that no oral approval, either express or implied, of any Claim shall be binding upon University unless and until such approval is ratified by execution of a written Change Order.

### **ARTICLE 5** **SUBCONTRACTORS**

#### **5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

5.1.1 Unless otherwise stated in the Contract Documents, Contractor shall submit in writing, prior to entering into subcontract agreements, the names and addresses of all Subcontractors proposed for the Work that were not previously listed in Contractor's Bid.

5.1.2 Any Subcontractor may be disqualified if University or University's Representative determines that such Subcontractor fails to meet the requirements of the Contract Documents or for any other reason.

5.1.3 In accordance with the Subletting and Subcontracting Fair Practices Act, nothing herein shall be deemed to entitle Contractor, without the approval of University, to substitute other subcontractors for those named in Contractor's List of Subcontractors and List of Changes in Subcontractors Due to Alternates contained in the completed Bid Form; and, except with such approval, no such substitution shall be made.

5.1.4 Except as hereinafter provided, any increase in the cost of the Work resulting from the replacement or substitution of a Subcontractor, as required by University or University's Representative pursuant to Article 5.1.1 shall be borne solely by Contractor and Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time on account of such replacement or substitution.

#### **5.2 SUBCONTRACTUAL RELATIONS**

5.2.1 Any part of the Work performed for Contractor by a first-tier Subcontractor shall be pursuant to a written subcontract. Each such subcontract shall require the Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to Contractor by the terms of the Contract Documents, to assume toward Contractor all the obligations and responsibilities which Contractor assumes towards University by the Contract Documents, and to perform such portion of the Work in accordance with the Contract Documents. Each such subcontract shall preserve and protect the rights of University under the Contract Documents, with respect to the Work to be performed by Subcontractor, so that subcontracting thereof will not prejudice such rights. Contractor shall cause each such subcontract to expressly include the following requirements:

- .1 Subcontractor waives all rights that Subcontractor may have against University for damages caused by fire or other perils covered by builder's risk property insurance carried by Contractor or University, except for such rights Subcontractor may have to the proceeds of such insurance held by University under Article 11.
- .2 University and entities and agencies designated by University will have access to and the right to audit and the right to copy at University's cost all of Subcontractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work. Subcontractor shall preserve all such records and other items for a period of at least 3 years after Final Completion.
- .3 Subcontractor recognizes the rights of University under Article 5.3, Contingent Assignment of Subcontracts, and agrees, upon notice from University that University has elected to accept said assignment and to retain Subcontractor pursuant to the terms of the subcontract, to complete the unperformed obligations under the subcontract and, if requested by University, to execute a written agreement confirming that Subcontractor is bound to University under the terms of the subcontract.

5.2.2 Upon the request of University, Contractor shall promptly furnish to University a true, complete, and executed copy of any subcontract.

5.2.3 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and University, except when, and only to the extent that, University elects to accept the assignment of the subcontract with such Subcontractor pursuant to Article 5.3, Contingent Assignment of Subcontracts.

### 5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.3.1 Contractor hereby assigns to University all its interest in first-tier subcontracts now or hereafter entered into by Contractor for performance of any part of the Work. The assignment will be effective upon acceptance by University in writing and only as to those subcontracts which University designates in writing. University may accept said assignment at any time during the course of the Work and prior to Final Completion in the event of a suspension or termination of Contractor's rights under the Contract Documents. Such assignment is part of the consideration to University for entering into the Contract with Contractor and may not be withdrawn prior to Final Completion.

## ARTICLE 6 CONSTRUCTION BY UNIVERSITY OR BY SEPARATE CONTRACTORS

### 6.1 UNIVERSITY'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 University reserves the right to award separate contracts for, or to perform with its own forces, construction or operations related to the Work or other construction or operations at or affecting the Project site, including portions of the Work which have been deleted by Change Order. Contractor shall cooperate with University's forces and Separate Contractors.

6.1.2 University will provide coordination of the activities of University's forces and of each Separate Contractor with the Work of Contractor. Contractor shall participate with University and Separate Contractors in joint review of construction schedules and Project requirements when directed to do so. Contractor shall make necessary revisions to the Contract Schedule after such joint review.

### 6.2 MUTUAL RESPONSIBILITY

6.2.1 Contractor shall afford University and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities. Contractor shall connect, schedule, and coordinate its construction and operations with the construction and operations of University and Separate Contractors as required by the Contract Documents.

6.2.2 If a portion of the Work is dependent upon the proper execution or results of other construction or operations by University or Separate Contractors, Contractor shall inspect such other construction or operations before proceeding with that portion of the Work. Contractor shall promptly report to University's Representative apparent discrepancies or defects which render the other construction or operations unsuitable to receive the Work. Unless otherwise directed by University's Representative, Contractor shall not proceed with the portion of the Work affected until apparent discrepancies or defects have been corrected. Failure of Contractor to so report within a reasonable time after discovering such discrepancies or defects shall constitute an acknowledgment that the other construction or operations by University or Separate Contractors is suitable to receive the Work, except as to defects not then reasonably discoverable.

### 6.3 UNIVERSITY'S RIGHT TO CLEAN UP

6.3.1 If a dispute arises between Contractor and Separate Contractors as to the responsibility under their respective contracts for maintaining the Project site and surrounding areas free from waste materials and rubbish, University may clean up and allocate the cost between those firms it deems to be responsible.

## ARTICLE 7 CHANGES IN THE WORK

### 7.1 CHANGES

7.1.1 University may, from time to time, order or authorize additions, deletions, and other changes in the Work by Change Order or Field Order without invalidating the Contract and without notice to sureties. Absence of such notice shall not relieve such sureties of any of their obligations to University.

7.1.2 Contractor may request a Change Order under the procedures specified in Article 4.2.

7.1.3 A Field Order may be issued by University, does not require the agreement of Contractor, and shall be valid with or without the signature of Contractor.

7.1.4 Contractor shall proceed promptly with any changes in the Work, unless otherwise provided in the relevant Change Order or Field Order.

### 7.2 DEFINITIONS

7.2.1 A Change Order is a Contract Document (as shown in the Exhibits) which has been signed by both University and Contractor, and states their agreement, as applicable, to the following:

- .1 A change in the Work, if any.
- .2 The amount of an adjustment of the Contract Sum, if any.
- .3 The amount of an adjustment of the Contract Time, if any.
- .4 A modification to any other Contract term or condition.

7.2.2 A Unilateral Change Order may be issued by University, without Contractor's signature, where University determines that a change in the Work requires an adjustment of the Contract Sum or Contract Time, even though no agreement has been reached between University and Contractor with regard to such change in the Work.

7.2.3 A Field Order (as shown in the Exhibits) is a Contract Document issued by University that orders Contractor to perform Work. A Field Order may, but need not, constitute a change in the Work and may, but need not, entitle Contractor to an adjustment of the Contract Sum or Contract Time.

### 7.3 CHANGE ORDER PROCEDURES

7.3.1 Contractor shall provide a Change Order Request and Cost Proposal pursuant to Article 4.2 and this Article 7.3 of the General Conditions. Adjustments of the Contract Sum resulting from Extra Work and Deductive Work shall be determined using one of the methods described in this Article 7.3. Adjustments of the Contract Time shall be subject to the provisions in Article 8. Contractor's obligation to provide Cost Proposals shall be subject to the following:

- .1 The obligation of Contractor to provide Cost Proposals is not Extra Work, and shall not entitle Contractor to an adjustment of the Contract Sum or Contract Time.
- .2 The failure of Contractor to timely provide a Cost Proposal pursuant to Article 4.2 and this Article 7.3.1 is a material breach of the Contract. Contractor shall be responsible for any delay in implementing a change for which Contractor failed to timely provide a Cost Proposal consistent with the requirements of Article 4.2 and this Article 7.3.1.

7.3.2 The term "Cost of Extra Work" as used in this Article 7.3 shall mean actual costs incurred or to be incurred by Contractor and each Subcontractor regardless of tier involved, to the extent not otherwise disallowed under Article 7.3.3, and shall be limited to the following (to the extent Contractor demonstrates that the costs are both reasonable and actually incurred, if such costs have been incurred):

- .1 Straight-time wages or salaries for employees employed at the Project site, or at fabrication sites off the Project site, incurred as a result of the performance of the Extra Work.
- .2 Fringe Benefits and Payroll Taxes for employees employed at the Project site, or at fabrication sites off the Project site, incurred as a result of the performance of the Extra Work.
- .3 Overtime wages or salaries, specifically authorized in writing by University's Representative, for employees employed at the Project site, or at fabrication sites off the Project site, incurred as a result of the performance of the Extra Work.
- .4 Fringe Benefits and Payroll Taxes for overtime Work specifically authorized in writing by University's Representative, for employees employed at the Project site, or at fabrication sites off the Project site, incurred as a result of the performance of the Extra Work.
- .5 Costs of materials and consumable items which are furnished and incorporated into the Extra Work, as approved by University's Representative. Such costs shall be charged at the lowest price available to Contractor but in no event shall such costs exceed competitive costs obtainable from other subcontractors, suppliers, manufacturers, and distributors in the area of the Project site. All discounts, rebates, and refunds and all returns from sale of surplus materials and consumable items shall accrue to University and Contractor shall make provisions so that they may be obtained.
- .6 Sales taxes on the costs of materials and consumable items which are incorporated into and used in the performance of the Extra Work pursuant to Article 7.3.2.5 above.
- .7 Rental charges for necessary machinery and equipment, whether owned or hired, as authorized in writing by University's Representative, exclusive of hand tools, used directly in the performance of the Extra Work. Such rental charges shall not exceed the current Equipment Rental Rates published by the California Department of Transportation for the area in which the work is performed. Such rental rates are found at <http://www.dot.ca.gov/hq/construc/equipmnt.html>. Contractor shall attach a copy of said schedule to the Cost Proposal. The charges for any machinery and equipment shall cease when the use thereof is no longer necessary for the Extra Work.
- .8 Additional costs of royalties and permits due to the performance of the Extra Work.
- .9 The cost for Insurance and Bonds shall not exceed 0.75% of items .1 through .8 above.

University and Contractor may agree upon rates to be charged for any of the items listed in this Article 7.3.2. Such agreed upon rates shall be subject to audit pursuant to Article 15.7. Contractor shall promptly refund to University any amounts (including associated mark-ups) in excess of the actual costs of such items.

7.3.3 Cost of Extra Work shall not include any of the following:

- .1 Supervision.
- .2 Superintendent(s).
- .3 Assistant Superintendent(s).
- .4 Project Engineer(s).
- .5 Project Manager(s).
- .6 Scheduler(s).
- .7 Estimator(s).
- .8 Small tools (Replacement value does not exceed \$300).
- .9 Office expenses including staff, materials and supplies.
- .10 On-site or off-site trailer and storage rental and expenses.
- .11 Site fencing.
- .12 Utilities including gas, electric, sewer, water, telephone, facsimile, copier equipment.
- .13 Data processing personnel and equipment.
- .14 Federal, state, or local business income and franchise taxes.
- .15 Overhead and Profit.
- .16 Costs and expenses of any kind or item not specifically and expressly included in Article 7.3.2.

7.3.4 The term "Contractor Fee" shall mean the full amount of compensation, both direct and indirect (including without limitation all overhead and profit), to be paid to Contractor for its own Work and the Work of all Subcontractors, for all costs and expenses not included in the Cost of Extra Work, whether or not such costs and expenses are specifically referred to in Article 7.3.3. The Contractor Fee shall not be compounded.

The Contractor Fee shall be computed as follows:

- .1 Fifteen percent (15%) of the cost of that portion of the Extra Work to be performed by the prime contractor with its own forces.
- .2 Fifteen percent (15%) of the cost of that portion of the Work to be performed by a Subcontractor with its own forces, plus 5% for the prime contractor. Total combined Contractor and Subcontractor fee shall not exceed 20%.
- .3 Fifteen percent (15%) of the cost of that portion of the Work to be performed by a sub-subcontractor with its own forces, or any lower tier of Subcontractor, plus 5% for the Subcontractor, plus 5% for the prime contractor. Total combined Contractor, Subcontractor and all sub-subcontractor fee shall not exceed 25%.

7.3.5 Compensation for Extra Work shall be computed on the basis of one or more of the following:

- .1 Where the Work involved is covered by Unit Prices contained in the Contract Documents, by application of the Unit Prices to the quantities of the items involved.
- .2 Where Unit Prices are not applicable, a mutually agreed upon lump sum supported by a Cost Proposal pursuant to 7.3.1.
- .3 Where Contractor and University cannot agree upon a lump sum, by Cost of Extra Work plus Contractor Fee applicable to such Extra Work.

7.3.6 As a condition to Contractor's right to an adjustment of the Contract Sum pursuant to Article 7.3.5.3, Contractor must keep daily detailed and accurate records itemizing each element of cost and shall provide substantiating records and documentation, including time cards and invoices. Such records and documentation shall be submitted to University's Representative on a daily basis.

7.3.7 For Work to be deleted by Change Order, the reduction of the Contract Sum shall be computed on the basis of one or more of the following:

- .1 Unit Prices stated in the Contract Documents.
- .2 Where Unit Prices are not applicable, a lump sum agreed upon by University and Contractor, based upon the actual costs which would have been incurred in performing the deleted portions of the Work as calculated in accordance with Articles 7.3.2 and 7.3.3, supported by a Cost Proposal pursuant to Article 7.3.1.

7.3.8 If any one Change involves both Extra Work and Deleted Work in the same portion of the Work, a Contractor fee will not be allowed if the deductive cost exceeds the additive cost. If the additive cost exceeds the deductive cost, a Contractor Fee will be allowed only on the difference between the two amounts.

7.3.9 The Contract Sum will be adjusted for a delay if, and only if, Contractor demonstrates that all of the following three conditions are met:

- .1 Condition Number One: The delay results in an extension of the Contract Time pursuant to Article 8.4.1.
- .2 Condition Number Two: The delay is caused solely by one or more of the following:
  - .1 An error or omission in the Contract Documents; or
  - .2 University's decision to change the scope of the Work, where such decision is not the result of any default or misconduct of Contractor; or
  - .3 University's decision to suspend the Work, where such decision is not the result of any default or misconduct of Contractor; or
  - .4 The failure of University (including University acting through its consultants, Design Professionals, Separate Contractors or University's Representative) to perform any Contract obligation where the failure to so perform is not the result of any default or misconduct of Contractor.
  - .5 A materially differing site condition pursuant to Article 3.17.
- .3 Condition Number Three: The delay is not concurrent with a delay caused by an event other than those listed in Article 7.3.9.2.

7.3.10 For each day of delay that meets all three conditions prescribed in Article 7.3.9 the Contract Sum will be adjusted by the daily rate included in the Agreement and specifically identified as the rate to be paid to Contractor for Compensable Delays. Pursuant to Article 9.7.4, said daily rate shall not apply to delays occurring after Substantial Completion.

7.3.11 Except as provided in Articles 7 and 8, Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

7.3.12 If for any reason one or more of the conditions prescribed in Article 7.3.9 is held legally unenforceable, the remaining conditions must be met as a condition to obtaining an adjustment of the Contract Time under Article 7.3.10.

## 7.4 FIELD ORDERS

7.4.1 Field Orders issued by University Representative shall be subject to the following:

- .1 A Field Order may state that it does or does not constitute a change in the Work.
- .2 If the Field Order states that it does not constitute a change in the Work and Contractor asserts that the Field Order constitutes a change in the Work, in order to obtain an adjustment of the Contract Sum or Contract Time for the Work encompassed by the Field Order, Contractor must follow all procedures set forth in Article 4, starting with the requirement of submitting a timely Change Order Request within 7 days of Contractor's receipt of the Field Order; failure to strictly follow those procedures is a bar to any Claim for an adjustment of the Contract Sum or Contract Time arising from performance of the Work described in the Field Order.

- .3 If the Field Order states that it does constitute a change in the Work, the Work described in the Field Order shall be considered Extra Work and Contractor shall be entitled to an adjustment of the Contract Sum and Contract Time, calculated under and subject to Contractor's compliance with the procedures for verifying and substantiating costs and delays in Articles 7 and 8.
- .4 In addition, if the Field Order states that it does constitute a change in the Work, the Field Order may or may not contain University's estimate of adjustment of Contract Sum and/or Contract Time. If the Field Order contains an estimate of adjustment of Contract Sum or Contract Time, the Field Order is subject to the following:
  - .1 Contractor shall not exceed University's estimate of adjustment to Contract Sum or Contract Time without prior written notification to University's Representative.
  - .2 If Contractor asserts that the change in the Work encompassed by the Field Order may entitle Contractor to an adjustment of Contract Sum or Contract Time in excess of University's estimate, in order not to be bound by University's estimate Contractor must follow all procedures set forth in Article 4, starting with the requirement of submitting a timely Change Order Request within 7 days of Contractor's receipt of the Field Order; failure to strictly follow those procedures is a bar to any Claim for an adjustment of the Contract Sum or Contract Time, in excess of University's estimate, arising from performance of the Work described in the Field Order.

7.4.2 Upon receipt of a Field Order, Contractor shall promptly proceed to perform the Work as ordered in the Field Order notwithstanding any disagreement by Contractor concerning whether the Work is extra.

#### **7.5 VARIATION IN QUANTITY OF UNIT PRICE WORK**

7.5.1 University has the right to increase or decrease the quantity of any Unit price item for which an Estimated Quantity is stated in the Bid Form.

#### **7.6 WAIVER**

7.6.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 7, including without limitation the requirements in Articles 7.3.6, 7.3.8, 7.3.9, 7.3.10, 7.3.11, or 7.3.12 in connection with any adjustment of the Contract Sum, will not constitute a waiver of, and will not preclude University or University's Representative from enforcing, such requirements in connection with any other adjustments of the Contract Sum.

7.6.2 Contractor agrees and understands that no oral approval, either express or implied, of any adjustment of the Contract Sum by University or its agents shall be binding upon University unless and until such approval is ratified by execution of a written Change Order.

### **ARTICLE 8** **CONTRACT TIME**

#### **8.1 COMMENCEMENT OF THE WORK**

8.1.1 The date of commencement of the Work shall be set forth in the Notice to Proceed. The date of commencement of the Work shall not be postponed by the failure of Contractor, Subcontractors, or of persons or firms for whom Contractor is responsible, to act.

#### **8.2 PROGRESS AND COMPLETION**

8.2.1 By signing the Agreement:

- .1 Contractor represents to University that the Contract Time is reasonable for performing the Work and that Contractor is able to perform the Work within the Contract Time.
- .2 Contractor agrees that University is purchasing the right to have Contractor present on the Project site for the full duration of the Contract Time, even if Contractor could finish the Contract in less than the Contract Time.

8.2.2 Contractor shall not, except by agreement or instruction of University in writing, commence operations on the Project site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by Contractor. The dates of commencement and Final Completion of the Work shall not be changed by the effective date of such insurance.

8.2.3 Contractor shall proceed expeditiously with adequate forces and shall achieve full completion of the Work within the Contract Time. If University's Representative determines and notifies Contractor that Contractor's progress is such that Contractor will not achieve full completion of the Work within the Contract Time, Contractor shall immediately and at no additional cost to University, take all measures necessary, including working such overtime, additional shifts, Sundays, or holidays as may be required to ensure that the Work is fully completed within the Contract Time. Upon receipt of such notice from University's representative, Contractor shall immediately notify University's Representative of all measures to be taken to ensure full completion of the Work within the Contract Time. Contractor shall reimburse University for any extra costs or expenses (including the reasonable value of any services provided by University's employees) incurred by University as the result of such measures.

#### **8.3 DELAY**

8.3.1 Except and only to the extent provided otherwise in Articles 7 and 8, by signing the Agreement, Contractor agrees:

- .1 to bear the risk of delays to the Work; and
- .2 that Contractor's bid for the Contract was made with full knowledge of this risk.

In agreeing to bear the risk of delays to the Work, Contractor understands that, except and only to the extent provided otherwise in Articles 7 and 8, the occurrence of events that delay the Work shall not excuse Contractor from its obligation to achieve Final Completion of the Work within the Contract Time, and shall not entitle Contractor to an adjustment of the Contract Sum.

#### 8.4 ADJUSTMENT OF THE CONTRACT TIME FOR DELAY

8.4.1 Subject to Article 8.4.2, the Contract Time will be extended for each day of delay for which Contractor demonstrates that all of the following four conditions have been met; a time extension will not be granted for any day of delay for which Contractor fails to demonstrate compliance with the four conditions:

- .1 Condition Number One: The delay is critical. A delay is critical if and only to the extent it delays a work activity that cannot be delayed without delaying Final Completion of the Work beyond the Contract Time. Under this Article 8.4.1.2, if the Contract Schedule shows Final Completion of the Work before expiration of the Contract Time, a delay is critical if and only to the extent the delay pushes Final Completion of the Work to a date that is beyond the Contract Time.
- .2 Condition Number Two: Within 7 days of the date Contractor discovers or reasonably should discover an act, error, omission or unforeseen condition or event causing the delay, is likely to have an impact on the critical path of the Project (even if Contractor has not yet been delayed when Contractor discovers or reasonably should discover the critical path impact of the act, error, omission or unforeseen condition giving rise to the delay) Contractor submits both a timely and complete Order Request that meets the requirements of Article 4.2.
- .3 Condition Number Three: The delay is not caused by:
  - .1 A concealed, unforeseen or unknown condition or event except for a materially differing site condition pursuant to Article 3.17; or
  - .2 The financial inability, misconduct or default of Contractor, a Subcontractor or supplier; or
  - .3 The unavailability of materials or parts.
- .4 Condition Number Four: The delay is caused by:
  - .1 Fire; or
  - .2 Strikes, boycotts, or like obstructive actions by labor organizations; or
  - .3 Acts of God (As used herein, "Acts of God" shall include only earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves); or
  - .4 A materially differing site condition pursuant to Article 3.17; or
  - .5 An error or omission in the Contract; or
  - .6 University's decision to change the scope of the Work, where such decision is not the result of any default or misconduct of Contractor; or
  - .7 University's decision to suspend the Work, where such decision is not the result of any default or misconduct of Contractor; or
  - .8 The failure of University (including University acting through its consultants, Design Professionals, Separate Contractors or University's Representative) to perform any Contract obligation unless such failure is due to Contractor's default or misconduct; or
  - .9 "Adverse weather," but only for such days of adverse weather, or on-site conditions caused by adverse weather, that are in excess of the number of days specified in the Supplementary Conditions. In order for a day to be considered a day of adverse weather for the purpose of determining whether Contractor is entitled to an adjustment in Contract Time, both of the following conditions must be met:
    - .1 the day must be a day in which, as a result of adverse weather, less than one half day of critical path work is performed by Contractor; and
    - .2 the day must be identified in the Contract Schedule as a scheduled work day.

8.4.2 If and only if a delay meets all four conditions prescribed in Article 8.4.1, then a time extension will be granted for each day that Final Completion of the Work is delayed beyond the Contract Time, subject to the following:

- .1 When two or more delays (each of which meet all four conditions prescribed in Article 8.4.1) occur concurrently on the same day, and each such concurrent delay by itself without consideration of the other delays would be critical, then all such concurrent delays shall be considered critical. For the purpose of determining whether and to what extent the Contract Time should be adjusted pursuant to Article 8.4.2, such concurrent critical delays shall be treated as a single delay for each such day.
- .2 Contractor shall be entitled to a time extension for a day of delay that meets all four requirements of Article 8.4.1 if the delay is concurrent with a delay that does not meet all four conditions of Article 8.4.1.

8.4.3 If for any reason one or more of the four conditions prescribed in Article 8.4.1 is held legally unenforceable, then all remaining conditions must be met as a condition to obtaining an extension of the Contract Time under Article 8.4.2.

#### 8.5 COMPENSATION FOR DELAY

8.5.1 To the maximum extent allowed by law, any adjustment of the Contract Sum as the result of delays shall be limited to the amounts specified in Article 7. Such adjustment shall, to the maximum extent allowed by law, constitute payment in full for all delay related costs (including costs for disruption, interruption and hindrance, general conditions, on and off-site overhead and profit) of Contractor, its Suppliers and Subcontractors of all tiers and all persons and entities working under or claiming through Contractor in connection with the Project.

8.5.2 By signing the Agreement, the parties agree that University is buying the right to do any or all of the following, which are reasonable and within the contemplation of the parties:

- .1 To order changes in the Work, regardless of the extent and number of changes, including without limitation:
  - .1 Changes to correct errors or omissions, if any, in the Contract Documents.
  - .2 Changes resulting from University's decision to change the scope of the Work subsequent to execution of the Contract.
  - .3 Changes due to unforeseen conditions.
- .2 To suspend the Work or any part thereof.
- .3 To delay the Work, including without limitation, delays resulting from the failure of University or University's Representative to timely perform any Contract obligation and delays for University's convenience.

## 8.6 WAIVER

8.6.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 8, including without limitation the requirements in Article 8.4, in connection with any or all past delays shall not constitute a waiver of, and shall not preclude University or University's Representative from enforcing, such requirements in connection with any present or future delays.

8.6.2 Contractor agrees and understands that no oral approval, either express or implied, of any time extension by University or its agents shall be binding upon University unless and until such approval is ratified by execution of a written Change Order.

See Supplementary Conditions

## ARTICLE 9 PAYMENTS AND COMPLETION

### 9.1 COST BREAKDOWN

9.1.1 Within 10 days after receipt of the Notice of Selection as the apparent lowest responsible Bidder, and with the Agreement, Contractor shall submit to University's Representative a Cost Breakdown of the Contract Sum in the form contained in the Exhibits. The Cost Breakdown shall itemize as separate line items the cost of each Work Activity and all associated costs, including but not limited to warranties, as-built documents, overhead expenses, and the total allowance for profit. Insurance and bonds shall each be listed as separate line items. The total of all line items shall equal the Contract Sum. The Cost Breakdown, when approved by University's Representative, shall become the basis for determining the cost of Work performed for Contractor's Applications for Payment.

### 9.2 PROGRESS PAYMENT

9.2.1 University agrees to pay monthly to Contractor, subject to Article 9.4.3, an amount equal to 95% of the sum of the following:

- .1 Cost of the Work in permanent place as of the date of Contractor's Application for Payment.
- .2 Plus cost of materials not yet incorporated in the Work, subject to Article 9.3.5.
- .3 Less amounts previously paid.

Under this Article 9.2.1, University may but is not required, to pay Contractor more frequently than monthly.

9.2.2 After Substantial Completion and subject to Article 9.4.3, University will make any of the remaining progress payments in full.

### 9.3 APPLICATION FOR PAYMENT

9.3.1 On or before the 10th day of the month or such other date as is established by the Contract Documents, Contractor shall submit to University's Representative an itemized Application for Payment, for the cost of the Work in permanent place, as approved by University's Representative, which has been completed in accordance with the Contract Documents, less amounts previously paid.

The Application for Payment shall be prepared as follows:

- .1 Use the form contained in the Exhibits.
- .2 Itemize in accordance with the Cost Breakdown.
- .3 Include such data substantiating Contractor's right to payment as University's Representative may reasonably require, such as invoices, certified payrolls, daily time and material records, and, if securities are deposited in lieu of retention pursuant to Article 9.5, a certification of the market value of all such securities as of a date not earlier than 5 days prior to the date of the Application for Payment.
- .4 Itemize retention.

9.3.2 Applications for Payment shall not include requests for payment on account of (1) changes which have not been authorized by Change Orders or (2) amounts Contractor does not intend to pay a Subcontractor because of a dispute or other reason.

9.3.3 If required by University, an Application for Payment shall be accompanied by (1) a summary showing payments that will be made to Subcontractors covered by such application and conditional releases upon progress payment or final payment and (2) unconditional waivers and releases of claims and stop payment notices, in the form contained in the Exhibits, from each Subcontractor listed in the preceding Application for Payment covering sums disbursed pursuant to that preceding Application for Payment.

9.3.4 Contractor warrants that, upon submittal of an Application for Payment, all Work, for which Certificates for Payment have been previously issued and payment has been received from University, shall be free and clear of all claims, stop payment notices, security interests, and encumbrances in favor of Contractor, Subcontractors, or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment relating to the Work.

9.3.5 At the sole discretion of University, University's Representative may approve for inclusion in the Application for Payment the cost of materials not yet incorporated in the Work but already delivered and suitably stored either at the Project site or at some other appropriate location acceptable to University's Representative. In such case, Contractor shall furnish evidence satisfactory to University's Representative (1) of the cost of such materials and (2) that such materials are under the exclusive control of Contractor. Only materials to be incorporated in the Work will be considered for payment. Any payment shall not be construed as acceptance of such materials nor relieve Contractor from sole responsibility for the care and protection of such materials; nor relieve Contractor from risk of loss to such materials from any cause whatsoever; nor relieve Contractor from its obligation to complete the Work in accordance with the Contract; nor act as a waiver of the right of University to require fulfillment of all terms of the Contract. Nothing contained within this Article 9.3.5 shall be deemed to obligate University to agree to payment for any non-incorporated materials or any part thereof, payment being in the sole and absolute discretion of University.

#### 9.4 CERTIFICATE FOR PAYMENT

9.4.1 If Contractor has submitted an Application for Payment in accordance with Article 9.3, University's Representative shall, not later than 5 working days after the date of receipt of the Application for Payment, issue to University, with a copy to Contractor, a Certificate for Payment for such amount as University's Representative determines to be properly due.

9.4.2 If any such Application for Payment is determined not to be in accordance with Article 9.3, University will inform Contractor as soon as practicable, but not later than 5 working days after receipt. Thereafter, Contractor shall have 3 days to revise and resubmit such Application for Payment; otherwise University's Representative may issue a Certificate for Payment in the amount that University's Representative determines to be properly due without regard to such Application for Payment.

9.4.3 Approval of all or any part of an Application for Payment may be withheld, a Certificate for Payment may be withheld, and all or part of a previous Certificate for Payment may be nullified and that amount withheld from a current Certificate for Payment on account of any of the following:

- .1 Defective Work not remedied.
- .2 Third-party claims against Contractor or University arising from the acts or omissions of Contractor or Subcontractors.
- .3 Stop payment notices.
- .4 Failure of Contractor to make timely payments due Subcontractors for material or labor.
- .5 A reasonable doubt that the Work can be completed for the balance of the Contract Sum then unpaid.
- .6 Damage to University or Separate Contractor for which Contractor is responsible.
- .7 Reasonable evidence that the Work will not be completed within the Contract Time; and that the unpaid balance of the Contract Sum would not be adequate to cover University's damages for the anticipated delay.
- .8 Failure of Contractor to maintain and update as-built documents.
- .9 Failure of Contractor to submit schedules or their updates as required by the Contract Documents.
- .10 Failure to provide conditional or unconditional releases from any Subcontractor or supplier, if such waiver(s) have been requested by University's Representative.
- .11 Performance of Work by Contractor without properly processed Shop Drawings.
- .12 Liquidated damages assessed in accordance with Article 5 of the Agreement.
- .13 Failure to provide updated Reports of Subcontractor Information and Self-Certifications, as applicable.
- .14 Failure to provide a Final Distribution of Contract Dollars with final Application for Payment.
- .15 Failure of Contractor, any of its Subcontractors, or any person or entity under Contractor, to provide any required insurance information (including submitting completed forms identified in the Insurance Manual)
- .16 Any other failure of Contractor to perform its obligations under the Contract Documents.

9.4.4 Subject to the withholding provisions of Article 9.4.3, University will pay Contractor the amount set forth in the Certificate for Payment no later than 10 days after the issuance of the Certificate for Payment.

9.4.5 Neither University nor University's Representative will have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

9.4.6 Neither a Certificate for Payment nor a progress payment made by University will constitute acceptance of Defective Work.

#### 9.5 DEPOSIT OF SECURITIES IN LIEU OF RETENTION AND DEPOSIT OF RETENTION INTO ESCROW

9.5.1 At the request and expense of Contractor, a substitution of securities may be made for any monies retained by University under Article 9.2 to ensure performance under the Contract Documents. Securities equivalent in value to the retention amount required by the Contract Documents for each Certificate for Payment shall be deposited by Contractor with a state or federally chartered bank in the State of California ("Escrow Agent"), which shall hold such securities pursuant to the escrow agreement referred to in Article 9.5.3 until retention is due in accordance with Article 9.8. Securities shall be valued as often as conditions of the securities market warrant, but in no case less than once per month. Contractor shall deposit additional securities so that the current market value of the total of all deposited securities shall be at least equal to the total required amount of retention.

9.5.2 Alternatively to Article 9.5.1, and at the request and expense of Contractor, University will deposit retention directly with Escrow Agent. Contractor may direct the investment of such deposited retention into interest bearing accounts or securities, and such deposits or securities shall be held by Escrow Agent upon the same terms provided for securities deposited by Contractor. Contractor and its surety shall bear the risk of failure of the Escrow Agent selected.

9.5.3 A prerequisite to the substitution of securities in lieu of retention or the deposit of retention into escrow shall be the execution by Contractor, University, and Escrow Agent of an Escrow Agreement for Deposit of Securities in Lieu of Retention and Deposit of Retention in the form contained in the Exhibits. Contractor shall submit the Selection of Retention Options and the Escrow Agreement for



Deposit of Securities in Lieu of Retention and Deposit of Retention not later than the date when 50% of the Work has been completed. The terms of such escrow agreement are incorporated into the requirements of this Article 9.5.

## 9.6 BENEFICIAL OCCUPANCY

9.6.1 University reserves the right, at its option and convenience, to occupy or otherwise make use of any part of the Work at any time prior to Substantial Completion or Final Completion upon 10 days' notice to Contractor. Such occupancy or use is herein referred to as "Beneficial Occupancy." Beneficial Occupancy shall be subject to the following conditions:

- .1 University's Representative will make an inspection of the portion of the Project to be beneficially occupied and prepare a list of items to be completed or corrected prior to Final Completion. Prior to Beneficial Occupancy, University will issue a Certificate of Beneficial Occupancy on University's form.
- .2 Beneficial Occupancy by University shall not be construed by Contractor as an acceptance by University of that portion of the Work which is to be occupied.
- .3 Beneficial Occupancy by University shall not constitute a waiver of existing claims of University or Contractor against each other.
- .4 Contractor shall provide, in the areas beneficially occupied and on a 24 hour and 7 day week basis as required, utility services, heating, and cooling for systems which are in operable condition at the time of Beneficial Occupancy. All responsibility for the operation and maintenance of equipment shall remain with Contractor while the equipment is so operated. Contractor shall submit to University an itemized list of each piece of equipment so operated with the date operation commences.
- .5 The Guarantee to Repair Periods, as defined in Article 12.2, will commence upon the occupancy date stated in the Certificate of Beneficial Occupancy except that the Guarantee to Repair Periods for that part of equipment or systems that serve portions of the Work for which University has not taken Beneficial Occupancy or issued a Certificate of Substantial Completion shall not commence until University has taken Beneficial Occupancy for that portion of the Work or has issued a Certificate of Substantial Completion with respect to the entire Project.
- .6 University will pay all normal operating and maintenance costs resulting from its use of equipment in areas beneficially occupied.
- .7 University will pay all utility costs which arise out of the Beneficial Occupancy.
- .8 Contractor shall not be responsible for providing security in areas beneficially occupied.
- .9 University will use its best efforts to prevent its Beneficial Occupancy from interfering with the conduct of Contractor's remaining Work.
- .10 Contractor shall not be required to repair damage caused by University in its Beneficial Occupancy.
- .11 Except as provided in this Article 9.6, there shall be no added cost to University due to Beneficial Occupancy.
- .12 Contractor shall continue to maintain all insurance required by the Contract in full force and effect.

## 9.7 SUBSTANTIAL COMPLETION

9.7.1 "Substantial Completion" means the stage in the progress of the Work, as determined by University's Representative, when the Work is complete and in accordance with the Contract Documents except only for completion of minor items which do not impair University's ability to occupy and fully utilize the Work for its intended purpose and a Certificate of Occupancy has been issued by University.

9.7.2 When Contractor gives notice to University's Representative that the Work is substantially complete, unless University's Representative determines that the Work is not sufficiently complete to warrant an inspection to determine Substantial Completion, University's Representative will inspect the Work. If University's Representative determines that the Work is not substantially completed, University's Representative will prepare and give to Contractor a comprehensive list of items to be completed or corrected before establishing Substantial Completion. Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. Upon notification that the items on the list are completed or corrected, as applicable, University's Representative will make an inspection to determine whether the Work is substantially complete. Costs for additional inspection by University's Representative shall be deducted from any monies due and payable to Contractor.

9.7.3 When University's Representative determines that the Work is substantially complete, University's Representative will arrange for inspection by University's Building Official and other officials, as appropriate, for the purpose of issuing a Certificate of Occupancy. After a Certificate of Occupancy has been issued by University, University's Representative will prepare a Certificate of Substantial Completion on University's form as contained in the Exhibits, which, when signed by University, shall establish the date of Substantial Completion and the responsibilities of University and Contractor for security, maintenance, utilities, insurance, and damage to the Work. University's Representative will prepare and furnish to Contractor a comprehensive "punch list" of items to be completed or corrected prior to Final Completion.

9.7.4 Unless otherwise provided in the Certificate of Substantial Completion, the Guarantee to Repair Period for the Work covered by the Certificate of Substantial Completion, shall commence on the date of Substantial Completion of the Work except that Substantial Completion shall not commence the Guarantee to Repair Period for any equipment or systems that:

- .1 Are not operational (equipment or systems shall not be considered operational if they cannot be used to provide the intended service); or
- .2 Are not accepted by University.

The Guarantee to Repair Period for equipment or systems which become operational and accepted subsequent to Substantial Completion will begin on the date of their written acceptance by University.

9.7.5 The daily rate included in the Agreement and specifically identified as the rate to be paid to Contractor for Compensable Delays shall not apply to any delays occurring after the Work is substantially completed.

#### **9.8 FINAL COMPLETION, FINAL PAYMENT, AND RELEASE OF RETENTION**

9.8.1 Upon receipt of notice from Contractor that the Work is ready for final inspection, University's Representative will make such inspection. Final Completion shall be when University's Representative determines that the Work is fully completed and in accordance with the Contract Documents, including without limitation, satisfaction of all "punch list" items, and determines that a Certificate of Occupancy has been issued by the University. University will file a Notice of Completion within 15 days after Final Completion. After receipt of the final Application for Payment, if University's Representative determines that Final Completion has occurred, University's Representative will issue the final Certificate for Payment.

9.8.2 Final payment and retention shall be released to Contractor, as set forth in Article 9.8.3, after:

- .1 Contractor submits the final Application for Payment and all submittals required in accordance with Article 9.3;
- .2 Contractor submits all guarantees and warranties procured by Contractor from Subcontractors, all operating manuals for equipment installed in the Project, as-built documents, and all other submittals required by the Contract Documents;
- .3 Contractor submits the Final Distribution of Contract Dollars in the form contained in the Exhibits; and
- .4 University's Representative issues the final Certificate for Payment.

At its sole discretion, after Final Completion, University may waive the requirement that Contractor submit a final Application for Payment before making final payment and/or release of retention to Contractor.

9.8.3 Final payment shall be paid not more than 10 days after University's Representative issues the final Certificate for Payment. Retention shall be released to Contractor 35 days after the filing of the Notice of Completion.

9.8.4 Acceptance of final payment by Contractor shall constitute a waiver of all claims, except claims for retention and claims previously made in writing and identified by Contractor as unsettled at the time of the final Application for Payment.

### **ARTICLE 10** **PROTECTION OF PERSONS AND PROPERTY**

#### **10.1 SAFETY PRECAUTIONS AND PROGRAMS**

10.1.1 Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

#### **10.2 SAFETY OF PERSONS AND PROPERTY**

10.2.1 Contractor shall take adequate precautions for safety of and shall provide adequate protection to prevent damage, injury, or loss to the following:

- .1 Employees involved in the Work and other persons who may be affected thereby.
- .2 The Work in place and materials and equipment to be incorporated therein, whether in storage on or off the Project site, under care, custody, or control of Contractor or Subcontractors.
- .3 Other property at the Project site and adjoining property.

10.2.2 Contractor shall erect and maintain, as required by existing conditions and performance of the Work, adequate safeguards for safety and protection, including providing adequate lighting and ventilation, posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

10.2.3 When use or storage of explosives, other hazardous materials, equipment, or unusual methods are necessary for execution of the Work, Contractor shall exercise the utmost care and carry on such activities only under the supervision of properly qualified personnel.

10.2.4 Contractor shall designate a responsible member of Contractor's organization at the Project site whose duty shall be the prevention of accidents. That person shall be the Superintendent, unless otherwise designated by Contractor in writing to University and University's Representative.

10.2.5 Contractor shall not load or permit any part of the Work or the Project site to be loaded so as to endanger the safety of persons or property.

#### **10.3 EMERGENCIES**

10.3.1 In an emergency affecting the safety of persons or property, Contractor shall act to prevent or minimize damage, injury, or loss. Contractor shall promptly notify University's Representative, which notice may be oral followed by written confirmation, of the occurrence of such an emergency and Contractor's action.

### **ARTICLE 11** **INSURANCE AND BONDS**

#### **11.1 UNIVERSITY CONTROLLED INSURANCE PROGRAM**

11.1.1 Overview. Except as limited by the provisions of this Article 11.1, the University shall pay for, obtain and maintain a University Controlled Insurance Program ("UCIP") providing Workers' Compensation and Employer's Liability Insurance coverage, Commercial

General Liability Insurance coverage, and Excess Liability Insurance coverage, to persons and entities enrolled in the UCIP, for Work performed on or at the Project Site and summarized as follows:

**For Lump Sum and Multiple Prime Trade Contracts:** UCIP only applies once a Notice to Proceed has been issued for Work in the applicable Phase as shown above on or at the Project Site.

Persons and entities eligible for such coverage (see Article 11.1.2), including Contractor and all Subcontractors, unless excluded under Article 11.1.5, will be required to enroll in the UCIP. Once enrolled, the UCIP will provide coverage as defined herein until the earliest of the following: the date on which University makes final payment to Contractor, the date a Notice of Cessation is filed for the Contract, or the date the Contract is terminated pursuant to Article 13. Additionally, all enrolled eligible Contractors and Subcontractors, will be required to obtain their own Commercial Automobile Liability Insurance for all Work (on and off the Project Site), as well as their own Commercial General Liability Insurance and Workers' Compensation and Employer's Liability Insurance for their Work not covered by the UCIP (see Article 11.1.10); Excluded Parties and Eligible Parties who are not enrolled must also obtain Commercial Automobile Liability Insurance, Workers' Compensation and Employer's Liability Insurance, and Commercial General Liability Insurance for all Work (on and off the Project Site) (see Article 11.1.10). The UCIP shall be administered by the UCIP Administrator identified in the Supplementary Conditions. Pursuant to Article 4.1.4, all communications concerning the UCIP shall be through the University Representative except that written communications between the UCIP Administrator, Contractor, Subcontractors, eligible, enrolled and excluded parties are authorized as follows:

- .1 For the purpose of obtaining copies of any UCIP insurance policies, the UCIP Insurance Manual and the UCIP Safety Standards Manual.
- .2 For the purpose of obtaining any certificates of insurance required by this Article 11.
- .3 For the purpose of verifying that Contractor, Subcontractors, eligible parties, enrolled parties and excluded parties have obtained and maintained any insurance required by this Article 11.
- .4 For the purpose of enrolling any party in the UCIP.

See Supplementary Conditions

11.1.2 Eligible Parties and Enrolled Parties: Except as provided in Article 11.1.5, each of the following, who will perform any labor at the Project Site, are an "Eligible Party:" Contractor, all Subcontractors of all tiers, and such other persons or entities as University may designate, in its sole discretion. Upon receipt of written acknowledgement of enrollment from the UCIP Administrator, an Eligible Party becomes an "Enrolled Party."

11.1.3 Except as provided in Article 11.1.1, Enrolled Parties shall not obtain or maintain Workers' Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, or Excess Liability Insurance for their Work performed on or at the Project Site. Notwithstanding the preceding sentence, Enrolled Parties may obtain, at their own cost, exclusive of any and all bids for the Work, change order requests, claims, or any other request or demand for payment or compensation for Work:

- .1 Excess Liability Insurance over and above the UCIP Coverages; and
- .2 Insurance to Cover Contractor's obligations set forth in Article 11.1.9.8; and
- .3 Any additional coverage purchased at the Contractor's or Subcontractor's option and sole expense pursuant to the obligations set forth in Article 11.1.9.5.

11.1.4 Eligible Parties (unless excluded under Article 11.1.5) shall not include in their bids for any Work to be performed on or at the Project Site any projected or actual cost to provide the Workers' Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, and Excess Liability Insurance that is being provided under the UCIP. Further, Enrolled Parties (unless excluded under Article 11.1.5) shall not include in any change order request, claim or other request or demand for payment or compensation for Work to be performed, or that was performed, on or at the Project Site any projected or actual cost to provide Workers' Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, and Excess Liability Insurance that is being provided under the UCIP. The University may reduce the Contract Sum by an amount commensurate with any projected or actual costs included contrary to the requirements of this Article 11.1.4.

11.1.5 Excluded Parties and Their Insurance Obligations. The UCIP Coverages do not cover the following "Excluded Parties:"

- .1 Contractor and Subcontractors whose Work includes demolition by means of blasting techniques or wrecking ball;
- .2 Contractor and Subcontractors whose Work includes hazardous materials remediation, removal and/or transport companies and their consultants;
- .3 Architects, surveyors, engineers, and soil testing engineers, and their consultants (except for architects, surveyors, engineers and soil testing engineers that are employees of Contractor or Subcontractor);
- .4 Vendors, suppliers, material dealers, manufacturing representatives, truckers, haulers, drivers, common carriers, equipment rental companies who perform equipment maintenance (does not apply to those who erect or install such rented equipment at the jobsite, or provide operators) and others who do not perform Work at the Project Site or who merely transport, pick up, deliver, or carry materials, personnel, parts or equipment, or any other items or persons to or from the Project Site;
- .5 Persons or Entities who are not an Eligible Party who are enrolled in the UCIP; and
- .6 Any other person or entity that the University, acting in its sole discretion, elects to exclude, even if otherwise eligible.

Excluded Parties and Eligible Parties that are not enrolled in the UCIP shall obtain and maintain the insurance coverage specified in Article 11.1.10.

11.1.6 UCIP Insurance Policies Establish the UCIP Coverages. University will provide its standard UCIP insurance coverages, subject to the deductibles, terms and conditions, exclusions, and limitations contained in the provisions of the standard UCIP policies. After contract award and following confirmation of Contractor's and/or Subcontractor's completed UCIP enrollment, the UCIP Administrator will provide the Contractor and/or Subcontractor with the user name and password to access the UCIP insurance policies. Pursuant to Civil Code section 2782.96, any Eligible Party or Enrolled Party receiving copies of the policies shall not disclose the policies to third parties other than to the Eligible Party's or Enrolled Party's insurance broker or attorney unless required to do so by law; the Eligible Party's or Enrolled Party's insurance broker or attorney may not disclose the policies to any third party unless required to do so by law. The summary descriptions of the UCIP Coverages in this Article 11, or elsewhere, are not intended to be complete or to alter or amend any provision of the actual UCIP Coverages. In the event that any provision of this Article, the Contract Documents, or elsewhere, conflicts with the UCIP insurance policies, the provisions of the actual UCIP insurance policies shall govern. The University's provision of its standard UCIP insurance policies meets the University's obligation to provide UCIP insurance under the Contract and, in the event of a conflict between the provisions of the policies and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University's obligation to provide UCIP insurance.

11.1.7 Summary of UCIP Coverages. UCIP Coverages shall apply only to the Work of each Enrolled Party performed on or at the Project Site, and only to Enrolled Parties that are eligible for the UCIP. UCIP coverages shall not apply to ineligible parties, even if they are erroneously enrolled in the UCIP. The UCIP shall provide only the following insurance to eligible and Enrolled Parties (this is only a summary):

- .1 Workers' Compensation Insurance: Statutory Limit  
This insurance is primary for all covered occurrences performed at University designated locations in California.
- .2 Employer's Liability Insurance:

Bodily Injury by Accident, each accident	\$1,000,000
Bodily Injury by Disease, each employee	\$1,000,000
Bodily Injury by Disease, policy limit	\$1,000,000

This insurance is primary for all occurrences at the Project site.

.3 Commercial General Liability Insurance

ISO CG 0001 Occurrence Form, or its equivalent:

Each Occurrence Limit	\$2,000,000
General Annual Aggregate Limit	\$4,000,000
Completed Operations Aggregate	\$4,000,000

Subject to the terms of the policy, coverage for Completed Operations shall be included for a period of 10 years or the applicable Statute of Repose, whichever is less.

This insurance is primary for all occurrences at the Project Site.  
 Aggregate limits specified are shared by all Enrolled Parties for all projects insured for the campus and any associated medical center.

.4 Excess Liability Insurance

(Over Employer's Liability & General Liability):

Each Occurrence Limit	\$100,000,000
General Annual Aggregate Limit	\$100,000,000
Products & Completed Operations Aggregate	\$100,000,000

Subject to the terms of the policy, coverage for Completed Operations shall be included for a period of 10 years or the applicable Statute of Repose, whichever is less.

Aggregate limits specified are shared by all Enrolled Parties for all projects insured for the campus and any associated medical center.

Exhibit 1A, entitled UCIP Coverage Summary, contains a summary of the policy limits, the term of the policy, and any known exclusions to the coverages described in this Article 11.1.7. Contractor, in the event of a loss, shall be responsible for the amounts set forth in Article 11.1.9 herein.

11.1.8 University's Insurance Obligations.

- .1 University shall pay the costs of premiums for the UCIP coverages.
- .2 University will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, other moneys due, audits or otherwise. Contractor hereby assigns to University the right to receive all such adjustments, and shall require each of its Subcontractors of every tier to assign to University the right to receive all such adjustments.
- .3 University's obligation to obtain insurance under the UCIP shall not relieve or limit, or be construed to relieve or limit, Contractor or any of its Subcontractors of any tier of any responsibility, liability, or obligation imposed by the Contract Documents, the UCIP insurance policies, or by law, including, without limitation, any indemnification obligations which Contractor or any of its Subcontractors have to University.
- .4 University reserves the right at its option, without obligation to do so, to furnish other insurance coverage of various types and limits provided that such coverage is not less than that provided at the time of enrollment.

11.1.9 Contractor's UCIP Obligations.

- .1 Contractor shall require that the terms of this Article 11 be incorporated into all Subcontractor agreements.
- .2 Contractor shall enroll in the UCIP within five (5) days of execution of the Contract (and prior to its commencement of Work on or at the Project Site) and maintain enrollment in the UCIP until the coverage terminates pursuant to Article 11.1.1.
- .3 Contractor shall assure that each of Contractor's eligible Subcontractors of every tier enroll in the UCIP within five (5) days of subcontracting (and prior to the Subcontractor's commencement of Work on or at the Project Site), and maintain enrollment in the UCIP until the coverage terminates pursuant to Article 11.1.1.
- .4 Contractor shall comply with all of the administrative, safety, insurance, and other requirements outlined in this Article, the UCIP Insurance Manual, the UCIP Safety Standards Manual, or elsewhere in the Contract Documents.
- .5 Contractor agrees that the University and the UCIP Administrator are not agents, partners or guarantors of the insurance companies (hereinafter "UCIP Insurer") providing coverage under the UCIP, that neither University nor the UCIP Administrator are responsible for any claims or disputes between or among Contractor, its Subcontractors of any tier, and any UCIP Insurer(s), and that neither University nor UCIP Administrator guarantees the solvency or the availability of limits of any UCIP Insurer(s). Any type of insurance coverage or limits of liability in addition to the UCIP Coverages that Contractor or its Subcontractors of any tier require for its or their own protection, or that is required by applicable laws or regulations, shall be Contractor's or its Subcontractors' sole responsibility and expense.

- .6 Contractor shall cooperate fully with the UCIP Administrator and the UCIP Insurers, as applicable, in its or their administration of the UCIP.
- .7 Contractor shall comply, and require all of its Subcontractors to comply, with UCIP Administrator's instructions for electronically enrolling in the UCIP and for electronically reporting payroll.
- .8 In the event of a Commercial General Liability loss covered by the UCIP, Contractor shall pay to the University an amount as set forth below. Payment pursuant to the preceding sentence shall not in any way limit the liability of Contractor to University or otherwise. The amount to be paid, which is based on the Contract Sum of the Contractor's Contract, at the time of loss, is as follows:

<u>Contract Sum at Time of Loss</u>	<u>Amount to be Paid (Per Occurrence)</u>
\$ 2,500,000 or Less	\$ 10,000
\$ 2,500,001 to \$10,000,000	\$ 15,000
\$10,000,001 and over	\$ 25,000

11.1.10 Additional Insurance Required from Contractor and each of the Subcontractors, Enrolled Parties, Eligible Parties that are not enrolled, and Excluded Parties (for this Article 11.1.10, hereinafter referred as Contractor and each Subcontractor) as specified in this Article 11.1.10. Unless otherwise specified herein, additional insurance policies and coverages are required during the course of construction. Such additional insurance policies and coverages shall be purchased at the expense of Contractor and each Subcontractor, and maintained through the duration of the contract, defined herein as until the earliest of the following occurs: the Project attains final completion as defined in Article 9.8.1, the date a Notice of Cessation is filed for the Contract, or the date the Contract is terminated pursuant to Article 13.

.1 Policies and coverages.

- .1 Commercial General Liability Insurance, subject to terms no less broad than the Insurance Services Office's (ISO) form CG 0001 (2004 or later edition), or a substitute form providing coverage at least as broad as the ISO form specified, with available coverage for all Work done by or on behalf of Contractor and each Subcontractor, and providing insurance for bodily injury, wrongful death, personal injury, property damage, and contractual liability. There shall be no limitations or exclusions of coverage beyond those contained in the standard ISO form CG 0001 (2004 or later edition). Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limit shall apply separately to Work of Contractor and each Subcontractor. Commercial General Liability Insurance for Enrolled Parties is required only for Work performed off the Project Site that has not been disclosed to the UCIP Administrator and scheduled on the UCIP policies. Commercial General Liability Insurance for Eligible Parties that are not enrolled, and for Excluded Parties, shall apply to all Work (both on and off the Project Site). The minimum limits required for the Commercial General Liability Insurance may be satisfied by combination of primary and umbrella/excess policies and shall not be less than the following:

	<u>Excluded Party/ Eligible Party</u>	
	<u>Enrolled Party</u>	<u>Not Enrolled*</u>
Each Occurrence	\$1,000,000 .....	\$2,000,000
General Aggregate	\$2,000,000 .....	\$4,000,000
Products/Completed Operations Aggregate	\$2,000,000 .....	\$4,000,000
Personal/Advertising Injury Aggregate	\$1,000,000 .....	\$2,000,000

To the extent that umbrella/excess policies are used to satisfy the required minimum limits, coverage shall be at least as broad as the coverage provided under the ISO form CG 0001 (2004 or later edition).

In addition to procuring and maintaining Commercial General Liability Insurance or a combination of primary and umbrella/excess policies as required in this Article 11.1.10) Years.1.1, Contractor and each Subcontractor shall continue to maintain Products/Completed Operations Extension liability insurance coverage for a minimum completed operations period of 10 year(s) or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less. All terms and conditions of such coverage shall be maintained during this completed operations period, including the required minimum coverage limits and the requirement to provide the University with coverage as an additional insured for completed operations as specified under this Article 11.1.10.1.1.

Additional Insured Requirements. To the maximum extent permitted by law, the Commercial General Liability Insurance shall, by endorsement to the policies, include the following:

The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, regardless of whether or not identified in the Contract Documents or to the Contractor in writing, shall be included as additional insureds on the primary and umbrella/excess Commercial General Liability Insurance policies of the Contractor and each Subcontractor for and relating to the ongoing and completed Work performed by the Contractor and each Subcontractor.

Such Commercial General Liability additional insured provision(s) or endorsement(s) shall be at least as broad as the Insurance Services Office's (ISO) forms CG 2010 07 04 in combination with the CG 2037 07 04 (or earlier versions of CG 2010 and CG 20 37 or Form B – CG 20 10 11 85 by itself), as published by ISO and shall be included with the Certificates of Insurance. The Contractor and each Subcontractor shall provide the University with coverage as an additional insured during the course of construction and for a minimum completed operations period of 10 year(s) or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less.

The Contractor and each Subcontractor agree that the amount of insurance available to the University or the additional insured shall be for the full amount of the loss up to the available policy limits and shall not be limited to any minimum requirements stated in the Contract Documents.

It is expressly agreed and understood that all additional insured coverage afforded by Contractor and Subcontractors shall be primary and non-contributing with respect to any other insurance or self-insurance purchased directly by the University and additional insureds. Any other insurance or self-insurance purchased directly by the University shall be excess of, and non-contributory with, the additional insured coverage afforded by Contractor and Subcontractor policies, if any. Further, to the extent that umbrella/excess policies are used to satisfy the required minimum limits, the "other insurance" provision of such policies shall be amended to provide additional insured coverage on a primary non-contributory basis once the underlying coverage is exhausted.

Such additional insured provision(s) or endorsement(s) shall be attached to and stated on the Certificates of Insurance.

- .2 Commercial Automobile Liability Insurance , subject to terms no less broad than the Insurance Services Office's (ISO) form CA 0001 (1990 or later edition), or a substitute form providing coverage at least as broad as the ISO form specified, covering owned, hired, leased, and non-owned automobiles used by or on behalf of Insured, shall provide liability insurance for bodily injury and property damage arising from the use or operation of such auto(s) with a minimum combined single limit of not less than \$1,000,000 per accident. The minimum limits required may be satisfied by combination of primary and umbrella/excess policies. The Commercial Automobile Liability Insurance shall be provided by Contractor and each Subcontractor for all on site and off site Work.

Additional Insured Requirements. To the maximum extent permitted by law, the Commercial Automobile Liability Insurance shall, by endorsement to the policy, include the following:

The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, regardless of whether or not identified in the Contract Documents or to the Contractor in writing, will be included as additional insureds on the policy of the Contractor and each Subcontractor for and relating to Work performed by the Contractor and each Subcontractor.

The Contractor shall provide status as an additional insured during the course of construction, until the earliest of the following occurs: the Project attains final completion as defined in Article 9.8.1, the date a Notice of Cessation is filed for the Contract, or the date the Contract is terminated pursuant to Article 13. Such additional insured provision(s) or endorsement(s) shall be attached to and stated on the Certificates of Insurance.

To the extent that umbrella/excess policies are used to satisfy the required limits, the "other insurance" provision of such policies shall be amended to provide additional insured coverage on a primary non-contributory basis once the underlying coverage is exhausted.

- .3 Workers' Compensation and Employer's Liability Insurance as required by Federal and State of California law. Workers' Compensation and Employer's Liability Insurance required by this Section 11.1.10.1.3 shall be provided by Contractor and Enrolled Parties only for Work performed off the Project Site that has not been disclosed to the UCIP Administrator and scheduled on the UCIP policies. Workers' Compensation and Employer's Liability Insurance required by this Section 11.1.10.1.3 shall be provided by Eligible Parties that are not enrolled, and Excluded Parties for all Work (both on and off the Project Site). The limits required shall not be less than the following:

Workers' Compensation Insurance: Statutory Limits as required by Federal and applicable state law.

Employer's Liability Insurance:

Bodily Injury by Accident, each accident.....	\$1,000,000
Bodily Injury by Disease, each employee .....	\$1,000,000
Bodily Injury by Disease, policy limit .....	\$1,000,000

The minimum Employer's Liability Insurance limits required may be satisfied by combination of primary and umbrella/excess policies. To the extent that umbrella/excess policies are used to satisfy the required limits, the "other insurance" provision of such policies shall be amended to provide additional insured coverage on a primary non-contributory basis once the underlying coverage is exhausted.

- .4 Any additional insurance required by the Supplementary General Conditions.
- .2 Any coverages required under this Article 11.1.10 shall not in any way limit the liability of Contractor and each Subcontractor.
- The insurance requirements set forth in minimum amounts shall not be construed to relieve Contractor for liability in excess of such coverage, nor shall it preclude University from taking such other actions as is available to it under any other provision of the Contract Documents.
- .3 Certificates of Insurance, executed by a duly authorized representative of each broker of record or each insurer, as evidence of their compliance with the insurance required by these Contract Documents and on the form contained in the Exhibits, and endorsements required by 11.1.10.6 shall be submitted prior to the commencement of work by the Contractor and each Subcontractor to the UCIP Administrator. The Certificates of Insurance shall provide for no cancellation or modification of coverage without prior written notice to UCIP Administrator, in accordance with policy provisions. Renewal certificates are to be provided to UCIP Administrator prior to the expiration of the required insurance policies.
- Failure of Contractor to request such certificate or other evidence of Subcontractor compliance with insurance requirements, or failure of Contractor to identify deficiencies from evidence that is provided, shall in no way limit or relieve Subcontractor of its obligations to maintain such insurance.
- .4 Failure of Contractor and each Subcontractor to comply with and maintain the required insurance shall constitute a default under this Contract and, at University's option, shall allow University to terminate this Contract for cause, withhold payment and/or purchase the required insurance, and the cost of such insurance shall be paid by Contractor and may be deducted from the Contract Sum.
- .5 University, University's consultants, University's Representative, and University's Representative's consultants will not by reason of their inclusion as insureds incur liability to the insurance carriers for payment of premiums for such insurance. Further, the funding of deductibles and self-insured retentions maintained by Contractor and Subcontractor shall be the sole responsibility of Contractor and Subcontractor, including any amounts applicable to deductibles or self-insured retentions applicable to claims involving the University as an additional insured as specified in Article 11.1.10.1.
- .6 Insurance as required by Article 11.1.10, shall, by endorsement to the policies, also include the following:
- .1 As to all liability insurance policies, each shall include a waiver of subrogation endorsement evidencing that the Contractor waives all rights of recovery by subrogation against University, University's Representative, University's Representative's consultants, their respective officers, agents, or employees.
- .2 Except with respect to the limits of insurance, Contractor and Subcontractor required insurance shall apply separately to each insured or additional insured.
- Such provision(s) or endorsement(s) shall be attached to and stated on the Certificates of Insurance.
- .7 The form and substance of all insurance policies required to be obtained under this Article 11.1.10 shall be subject to approval by University. All policies required by this Article 11.1.10 shall be issued by companies with ratings and financial classifications as specified in the Supplementary Conditions.
- .8 Contractor shall, by mutual agreement with University, furnish any additional insurance as may be required by University. Contractor shall provide Certificates of Insurance evidencing such additional insurance.
- .9 The Certificate of Insurance shall show (1) all companies affording coverage and (2) the name of the insured exactly in the manner as shown on the Bid Form. The name of the insured must be the name under which the entity is licensed by the State License Board.
- .10 If any insurance company refuses to use the Certificate of Insurance form as contained in the Exhibits, it must provide a Certificate of Insurance evidencing compliance with this Article, including those provisions noted under DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES section of the Certificate of Insurance Exhibit by including an endorsement to its Certificate of Insurance form covering those noted provisions exactly as they appear on the Certificate of Insurance Exhibit.
- .11 At the request of University, Contractor shall submit to University copies of the policies obtained by Contractor and each Subcontractor.
- .12 If coverage under the UCIP has terminated for any reason, Contractor and each Subcontractor shall not perform Work on or at the Project Site (including corrective, repair or warranty work) unless and until the insurance policies and coverages specified in this Article 11.1.10 are in effect.
- .13 All Subcontractors and sub-subcontractors, are subject to the same insurance requirements as Contractor.
- 11.1.11 Contractor's Representations and Warranties to University. Contractor represents and warrants to University, and will require each of its Subcontractors of every tier to represent and warrant to University that:
- .1 All information they submit to University, or to the UCIP Administrator, shall be current, accurate and complete.
- .2 They have read the UCIP coverage summaries and have had the opportunity to read and analyze copies of the UCIP insurance policies made available by University, and they understand the UCIP Coverages. Any reference or summary in the Agreement, this Article, the Contract Documents, or elsewhere as to amount, nature, type or extent



of UCIP Coverages and/or potential applicability to any potential claim or loss is for reference only. Contractor and its Subcontractors of all tiers have not relied upon said references or summaries, but solely upon their own independent review and analysis of the UCIP Coverages in formulating any understanding and/or belief as to amount, nature, type or extent of any UCIP Coverages and/or its potential applicability to any potential claim or loss.

- .3 The Costs of UCIP Coverages were not included in Contractor's bid or proposal, the Contract Price/Contract Sum, and will not be included in any change order request, claim, change order or any request for payment for the Work or extra work where UCIP applies.
- .4 Contractor acknowledges that University shall not pay or compensate Contractor or any Subcontractor of any tier, in any manner, for the Costs of UCIP Coverages.

11.1.12 University's Election to Modify or Discontinue the UCIP. University may, for any reason, modify the UCIP Coverages, discontinue the UCIP, or request that Contractor or any of its Subcontractors of any tier withdraw from the UCIP upon thirty (30) days written notice. Upon such notice Contractor and/or one or more of its Subcontractors, as specified by University in such notice, shall obtain and thereafter maintain during the performance of the Work, all (or a portion thereof as specified by University) of the UCIP Coverages. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to University's approval. The University shall pay Contractor for the reasonable cost of replacement coverage required by this Article 11.1.12.

11.1.13 Waiver of Subrogation. As to the UCIP and to the extent permitted by law, Contractor and the University mutually waives all rights of recovery by subrogation arising out of deductibles which are the responsibility of the Contractor under the UCIP and for claims that are covered by the UCIP insurance policies or any other reason against each other, the University's Representative, University's Representative's consultants, and their respective officers, agents, or employees, and any other enrolled contractor or enrolled Subcontractor performing Work or rendering services on behalf of University in connection with the planning, development and construction of the Project. As to other insurance as identified under Article 12.1.10, to the extent permitted by law, Contractor waives all rights of recovery by subrogation, as respects loss, damage, claims, suits or demands arising out of the Work, or any other reason against University, University's Representative, University's Representative's consultants, and their respective officers, agents, or employees, performing Work or rendering services on behalf of University in connection with the planning, development and construction of the Project. University and Contractor shall also each require that all insurance policies as required hereunder Article 11.1.10.1.1, .2, .3 and .4 (other than professional liability insurance policies) related to the Work, include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against each other where applicable and together with the same parties referenced immediately above in this Section 11.1.13. Subcontractor agrees to hold harmless and indemnify University for any loss or expense incurred as a result of Contractor's failure to obtain such waivers of subrogation from the insurers. Where permitted by law, Contractor shall require similar written express waivers and insurance clauses from each of its Subcontractors. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

11.1.14 Duty of Care. Nothing contained in this Article, the Contract Documents, or elsewhere shall relieve the Contractor or any of its Subcontractors of any tier of their respective obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract Documents.

11.1.15 Conflicts. In the event of a conflict between the Contract and the provisions of the UCIP insurance policies, the insurance policies shall govern.

11.1.16 Safety. Contractor shall be solely responsible for safety on the project. Contractor shall establish a safety program that, at a minimum, complies with all local, state and Federal safety standards, and any safety standards established by University for the Project.

## 11.2 BUILDER'S RISK PROPERTY INSURANCE

11.2.1 If and only if the Contract Sum for the construction phase exceeds \$300,000 at the time of award, University will provide its standard builder's risk property insurance, subject to the deductibles, terms and conditions, exclusions, and limitations as contained in the provisions of the policy. A copy of the University's standard builder's risk property insurance policy is available at the University's Facility office. In addition, a summary of the provisions of the policy is included as an Exhibit to the Contract. Contractor agrees that the University's provision of its standard builder's risk property insurance policy meets the University's obligation to provide builder's risk property insurance under the Contract and, in the event of a conflict between the provisions of the policy and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University's obligation to provide such insurance. The proceeds under such insurance policies taken out by University insuring the Work (at or on the Project Site) and materials will be payable to University and Contractor as their respective interests, from time to time, may appear. Contractor shall be responsible for the deductible amount in the event of a loss. In addition, nothing in this Article 11.2 shall be construed to relieve Contractor of full responsibility for loss of or damage to materials not incorporated in the Work, and for Contractor's tools and equipment used to perform the Work, whether on the Project Site or elsewhere, or to relieve Contractor of its responsibilities referred to under this Article 11. Materials incorporated in the Work, as used in this Article 11.2, shall mean materials furnished while in transit to, stored at, or in permanent place at the Project Site.

11.2.2 Insurance policies referred to under this Article 11.2 shall:

- .1 Include a provision that the policies are primary and do not participate with nor are excess over any other valid collectible insurance carried by Contractor.
- .2 Include a waiver of subrogation against Contractor, its Subcontractors, its agents, and employees.
- .3 Include additional insured status for General Contractors, Construction Managers and subcontractors of every tier. As respects architects, engineers, manufacturers and suppliers, the foregoing is limited to their site activities only.

11.2.3 Builder's risk insurance coverage under this Article 11.2 will expire on the date of Final Completion recited in a Notice of Completion filed pursuant to Article 9.8.1. Should a Notice of Completion be filed more than 10 days after the date of Final Completion, the date of Final Completion recited in the Notice of Completion will govern.

### **11.3 PERFORMANCE BOND AND PAYMENT BOND**

11.3.1 Contractor shall furnish bonds covering the faithful performance of the Contract (Performance Bond) and payment of obligations arising thereunder (Payment Bond) on the forms contained in Exhibits 3 and 2.

11.3.2 The Payment Bond and Performance Bond shall each be in the amount of the Contract Sum.

11.3.3 The Payment Bond and Performance Bond shall be in effect on the date the Contract is signed by University.

11.3.4 Contractor shall promptly furnish such additional security as may be required by University to protect its interests and those interests of persons or firms supplying labor or materials to the Work. Contractor shall furnish supplemental Payment and Performance Bonds each in the amount of the current Contract Sum at the request of the University.

11.3.5 Surety companies used by Contractor shall be, on the date the Contract is signed by University, an admitted surety insurer (as defined in the California Code of Civil Procedure Section 995.120).

11.3.6 The premiums for the Payment Bond and Performance Bond shall be paid by Contractor.

## **ARTICLE 12** **UNCOVERING AND CORRECTION OF WORK**

### **12.1 UNCOVERING OF WORK**

12.1.1 If a portion of the Work is covered contrary to University's Representative's request or direction, or contrary to the requirements of the Contract Documents, it must, if required in writing by University's Representative, be uncovered for University's Representative's observation and be replaced at Contractor's expense without adjustment of the Contract Time or the Contract Sum.

12.1.2 If a portion of the Work has been covered, which is not required by the Contract Documents to be observed or inspected prior to its being covered and which University's Representative has not specifically requested to observe prior to its being covered, University's Representative may request to see such Work and it shall be uncovered and replaced by Contractor. If such Work is in accordance with the Contract Documents, the costs of uncovering and replacing the Work shall be added to the Contract Sum by Change Order; and if the uncovering and replacing of the Work extends the Contract Time, an appropriate adjustment of the Contract Time shall be made by Change Order. If such Work is not in accordance with the Contract Documents, Contractor shall pay such costs and shall not be entitled to an adjustment of the Contract Time or the Contract Sum.

### **12.2 CORRECTION OF DEFECTIVE WORK AND GUARANTEE TO REPAIR PERIOD**

12.2.1 The term "Guarantee to Repair Period" means a period of 1 year, unless a longer period of time is specified, commencing as follows:

- .1 For any Work not described as incomplete in the Certificate of Substantial Completion, on the date of Substantial Completion.
- .2 For space beneficially occupied or for separate systems fully utilized prior to Substantial Completion pursuant to Article 9.6, from the first date of such Beneficial Occupancy or actual use, as established in a Certificate of Beneficial Occupancy.
- .3 For all Work other than .1 or .2 above, from the date of Final Completion.

12.2.2 Contractor shall (1) correct Defective Work that becomes apparent during the progress of the Work or during the Guarantee to Repair Period and (2) replace, repair, or restore to University's satisfaction any other parts of the Work and any other real or personal property which is damaged or destroyed as a result of Defective Work or the correction of Defective Work. Contractor shall promptly commence such correction, replacement, repair, or restoration upon notice from University's Representative or University, but in no case later than 10 days after receipt of such notice; and Contractor shall diligently and continuously prosecute such correction to completion. Contractor shall bear all costs of such correction, replacement, repair, or restoration, and all losses resulting from such Defective Work, including additional testing, inspection, and compensation for University's Representative's services and expenses. Contractor shall perform corrective Work at such times that are acceptable to University and in such a manner as to avoid, to the extent practicable, disruption to University's activities.

12.2.3 If immediate correction of Defective Work is required for life safety or the protection of property and is performed by University or Separate Contractors, Contractor shall pay to University all reasonable costs of correcting such Defective Work. Contractor shall replace, repair, or restore to University's satisfaction any other parts of the Work and any other real or personal property which is damaged or destroyed as a result of such Defective Work or the correction of such Defective Work.

12.2.4 Contractor shall remove from the Project site portions of the Work and materials which are not in accordance with the Contract Documents and which are neither corrected by Contractor nor accepted by University.

12.2.5 If Contractor fails to commence correction of Defective Work within 10 days after notice from University or University's Representative or fails to diligently prosecute such correction to completion, University may correct the Defective Work in accordance with Article 2.4; and, in addition, University may remove the Defective Work and store salvageable materials and equipment at Contractor's expense.

12.2.6 If Contractor fails to pay the costs of such removal and storage as required by Articles 12.2.4 and 12.2.5 within 10 days after written demand, University may, without prejudice to other remedies, sell such materials at auction or at private sale, or otherwise dispose of such material. Contractor shall be entitled to the proceeds of such sale, if any, in excess of the costs and damages for which

Contractor is liable to University, including compensation for University's Representative's services and expenses. If such proceeds of sale do not cover costs and damages for which Contractor is liable to University, the Contract Sum shall be reduced by such deficiency. If there are no remaining payments due Contractor or the remaining payments are insufficient to cover such deficiency, Contractor shall promptly pay the difference to University.

12.2.7 Contractor's obligations under this Article 12 are in addition to and not in limitation of its warranty under Article 3.4 or any other obligation of Contractor under the Contract Documents. Enforcement of Contractor's express warranties and guarantees to repair contained in the Contract Documents shall be in addition to and not in limitation of any other rights or remedies University may have under the Contract Documents or at law or in equity for Defective Work. Nothing contained in this Article 12 shall be construed to establish a period of limitation with respect to other obligations of Contractor under the Contract Documents. Establishment of the Guarantee to Repair Period relates only to the specific obligation of Contractor to correct the Work and in no way limits either Contractor's liability for Defective Work or the time within which proceedings may be commenced to enforce Contractor's obligations under the Contract Documents.

### **ARTICLE 13** **TERMINATION OR SUSPENSION OF THE CONTRACT**

#### **13.1 TERMINATION BY CONTRACTOR**

13.1.1 Subject to Article 13.1.2, Contractor shall have the right to terminate the Contract only upon the occurrence of one of the following:

- .1 Provided that University has not commenced reasonable action to remove any order of a court within the 90 day period, the Work is stopped for 90 consecutive days, through no act or fault of Contractor, any Subcontractor, or any employee or agent of Contractor or any Subcontractor, due to an issuance of an order of a court or other public authority having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable.
- .2 University fails to perform any material obligation under the Contract and fails to cure such default within 30 days, or University has not commenced to cure such default within 30 days where such cure will require a reasonable period beyond 30 days and diligently prosecutes the same to completion, after receipt of notice from Contractor stating the nature of such default(s).
- .3 Repeated suspensions by University, other than such suspensions as are agreed to by Contractor under Article 13.3, which constitute in the aggregate more than 20% of the Contract Time.

13.1.2 Upon the occurrence of one of the events listed in Article 13.1.1, Contractor may, upon 10 days additional notice to University and University's Representative, and provided that the condition giving rise to Contractor's right to terminate is continuing, terminate the Contract.

13.1.3 Upon termination by Contractor, University will pay to Contractor the sum determined by Article 13.4.4. Such payment will be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by Contractor pursuant to Article 13.1; and Contractor will be entitled to no other compensation or damages and expressly waives the same.

#### **13.2 TERMINATION BY UNIVERSITY FOR CAUSE**

13.2.1 University will have the right to terminate the Contract for cause at any time after the occurrence of any of the following events:

- .1 Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
- .2 Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
- .3 A receiver is appointed to take charge of Contractor's property.
- .4 The commencement or completion of any Work activity on the critical path is more than 30 days behind the date set forth in the Contract Schedule for such Work activity, as a result of an Unexcusable Delay. For a Contract with a Contract Time of less than 300 days, the 30-day period shall be reduced to the number of days commensurate with 10% of the Contract Time.
- .5 Contractor abandons the Work.

13.2.2 Upon the occurrence of any of the following events, University will have the right to terminate the Contract for cause if Contractor fails to promptly commence to cure such default and diligently prosecute such cure within 5 days after notice from University, or within such longer period of time as is reasonably necessary to complete such cure:

- .1 Contractor persistently or repeatedly refuses or fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
- .2 Contractor fails to make prompt payment of amounts properly due Subcontractors after receiving payment from University.
- .3 Contractor disregards Applicable Code Requirements.
- .4 Contractor persistently or materially fails to execute the Work in accordance with the Contract Documents.
- .5 Contractor is in default of any other material obligation under the Contract Documents.
- .6 Contractor persistently or materially fails to comply with applicable safety requirements.

13.2.3 Upon any of the occurrences referred to in Articles 13.2.1 and 13.2.2, University may, at its election and by notice to Contractor, terminate the Contract and take possession of the Project site and all materials, supplies, equipment, tools, and construction equipment and machinery thereon owned by Contractor; accept the assignment of any or all of the subcontracts; and then complete the Work by any method University may deem expedient. If requested by University, Contractor shall remove any part or all of Contractor's

materials, supplies, equipment, tools, and construction equipment and machinery from the Project site within 7 days of such request; and if Contractor fails to do so, University may remove or store, and after 90 days sell, any of the same at Contractor's expense.

13.2.4 If the Contract is terminated by University as provided in this Article 13.2, Contractor shall not be entitled to receive any further payment until the expiration of 35 days after Final Completion and acceptance of all Work by University.

13.2.5 If the unpaid balance of the Contract Sum exceeds the cost of completing the Work, including all additional costs and expenses made necessary thereby, including costs for University staff time, plus all losses sustained, including any liquidated damages provided under the Contract Documents, such excess shall be paid to Contractor. If such costs, expenses, losses, and liquidated damages exceed the unpaid balance of the Contract Sum, Contractor shall pay such excess to University.

13.2.6 No termination or action taken by University after termination shall prejudice any other rights or remedies of University provided by law or by the Contract Documents upon such termination; and University may proceed against Contractor to recover all losses suffered by University.

### **13.3 SUSPENSION BY UNIVERSITY FOR CONVENIENCE**

13.3.1 University may, at any time and from time to time, without cause, order Contractor, in writing, to suspend, delay, or interrupt the Work in whole or in part for such period of time, up to 90 days, as University may determine, with such period of suspension to be computed from the date of delivery of the written order. Such order shall be specifically identified as a "Suspension Order" under this Article 13.3. The Work may be stopped for such further period as the parties may agree. Upon receipt of a Suspension Order, Contractor shall, at University's expense, comply with its terms and take all reasonable steps to minimize costs allocable to the Work covered by the Suspension Order during the period of Work stoppage. Within 90 days after the issuance of the Suspension Order, or such extension to that period as is agreed upon by Contractor and University, University shall either cancel the Suspension Order or delete the Work covered by such Suspension Order by issuing a Change Order.

13.3.2 If a Suspension Order is canceled or expires, Contractor shall continue with the Work. A Change Order will be issued to cover any adjustments of the Contract Sum or the Contract Time necessarily caused by such suspension. Any Claim by Contractor for an adjustment of the Contract Sum or the Contract Time shall be made within 21 days after the end of the Work suspension. Contractor agrees that submission of its claim within said 21 days is an express condition precedent to its right to Arbitrate or Litigate such a claim.

13.3.3 The provisions of this Article 13.3 shall not apply if a Suspension Order is not issued by University. A Suspension Order shall not be required to stop the Work as permitted or required under any other provision of the Contract Documents.

### **13.4 TERMINATION BY UNIVERSITY FOR CONVENIENCE**

13.4.1 University may, at its option, terminate this Contract, in whole or from time to time in part, at any time by giving notice to Contractor. Upon such termination, Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of Contractor, University shall pay Contractor in accordance with Article 13.4.4.

13.4.2 Upon receipt of notice of termination under this Article 13.4, Contractor shall, unless the notice directs otherwise, do the following:

- .1 Immediately discontinue the Work to the extent specified in the notice.
- .2 Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Work as is not discontinued.
- .3 Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
- .4 Thereafter do only such Work as may be necessary to preserve and protect Work already in progress and to protect materials, plants, and equipment on the Project site or in transit thereto.

13.4.3 Upon such termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to Contractor's obligations under Article 13.4.2, as to bona fide obligations assumed by Contractor prior to the date of termination.

13.4.4 Upon such termination, University shall pay to Contractor the sum of the following:

- .1 The amount of the Contract Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination, less sums previously paid to Contractor.
- .2 Plus an amount equal to the lesser of \$50,000 or 5% of the difference between the Contract Sum and the amount of the Contract Sum allocable to the portion of the Work properly performed by Contractor as of the date of termination.
- .3 Plus previously unpaid costs of any items delivered to the Project site which were fabricated for subsequent incorporation in the Work.
- .4 Plus any proven losses with respect to materials and equipment directly resulting from such termination.
- .5 Plus reasonable demobilization costs.
- .6 Plus reasonable costs of preparing a statement of the aforesaid costs, expenses, and losses in connection with such termination.

The above payment shall be the sole and exclusive remedy to which Contractor is entitled in the event of termination of the Contract by University pursuant to Article 13.4; and Contractor will be entitled to no other compensation or damages and expressly waives same.

## **ARTICLE 14** **STATUTORY AND OTHER REQUIREMENTS**

### **14.1 PATIENT HEALTH INFORMATION (if applicable)**

Contractor acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). Contractor shall immediately notify University Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. Contractor will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If Contractor, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, Contractor will report such actions immediately to the University Representative. Contractor will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. Contractor will report to University Representative within five (5) days after Contractor gives University Representative notice of the event/action of the steps taken to prevent future occurrences.

#### 14.2 NONDISCRIMINATION

14.2.1 For purposes of this Article 14.2, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.2.2 Contractor shall comply and shall ensure that all Subcontractors comply with Section 12900 through 12996, of the State of California Government Code.

14.2.3 Contractor agrees as follows during the performance of the Work:

- .1 Contractor shall provide equal treatment to, and shall not willfully discriminate against or allow harassment of any employee or applicant for employment on the basis of: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). Contractor will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above. Such equal treatment shall apply, but not be limited to the following: employment; upgrade; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Contractor also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). For purposes of this provision: (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.
- .2 Contractor and all Subcontractors will permit access to their records of employment, employment advertisements, application forms, and other pertinent data and records by University or any appropriate agency of the State of California designated by University for the purposes of investigation to ascertain compliance with this Article 14.2. The outcome of the investigation may result in the following:
  - .1 A finding of willful violation of the provisions of this Contract or of the Fair Employment Practices Act may be regarded by University as (1) a basis for determining that Contractor is not a "responsible bidder" as to future contracts for which such Contractor may submit bids or (2) a basis for refusing to accept or consider the bids of Contractor for future contracts.
  - .2 University may deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has (1) investigated and determined that Contractor has violated the Fair Employment Practices Act and (2) issued an order under the State of California Government Code Section 12970 or obtained an injunction under Government Code Section 12973.
  - .3 Upon receipt of such written notice from the Fair Employment Practices Commission, University may notify Contractor that, unless it demonstrates to the satisfaction of University within a stated period that the violation has been corrected, Contractor's bids on future projects will not be considered.
  - .4 Contractor agrees that, should University determine that Contractor has not complied with this Article 14.2, Contractor shall forfeit to University, as a penalty, for each day or portion thereof, for each person who was denied employment as a result of such non-compliance, the penalties provided in Article 14.3 for violation of prevailing wage rates. Such penalty amounts may be recovered from Contractor; and University may deduct any such penalty amounts from the Contract Sum.
  - .5 Nothing contained in this Article 14.2 shall be construed in any manner so as to prevent University from pursuing any other remedies that may be available at law.

- .6 Contractor shall meet the following standards for compliance and provide University with satisfactory evidence of such compliance upon University's request, which shall be evaluated in each case by University:
  - .1 Contractor shall notify its Superintendent and other supervisory personnel of the nondiscrimination requirements of the Contract Documents and their responsibilities thereto.
  - .2 Contractor shall notify all sources of employee referrals (including unions, employment agencies, and the State of California Department of Employment) of the nondiscrimination requirements of the Contract Documents by sending to such sources and by posting the Notice of Equal Employment Opportunity (EEO).
  - .3 Contractor or its representative shall, through all unions with whom it may have agreements, develop agreements that (1) define responsibilities for nondiscrimination in hiring, referrals, upgrading, and training and (2) implement an affirmative nondiscrimination program, in terms of the unions' specific areas of skill and geography, such that qualified minority women, nonminority women, and minority men shall be available and given an equal opportunity for employment.
  - .4 Contractor shall notify University of opposition to the nondiscrimination requirements of the Contract Documents by individuals, firms, or organizations during the term of the Contract.
- .7 Contractor shall include the provisions of the foregoing Articles 14.2.3.2.1 through 14.2.3.2.6 in all subcontracts with Subcontractors, so that such provisions will be binding upon each such Subcontractor.

### 14.3 PREVAILING WAGE RATES

14.3.1 For purposes of this Article 14.3, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.3.2 Contractor shall comply and shall ensure that all Subcontractors comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Section 1720 et seq. of the State of California Labor Code. Compliance with these sections is required by this Contract. The Work under this Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations.

14.3.3 The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Work is to be performed for each craft, classification, or type of worker required to perform the Work. A copy of the general prevailing per diem wage rates will be on file at University's principal facility office and will be made available to any interested party upon request. Contractor shall post a copy of the general prevailing per diem wage rates as well as job site notices as prescribed by regulation at the job site. By this reference, such schedule is made part of the Contract Documents. Contractor shall pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by Contractor in the execution of the Work. Contractor shall cause all subcontracts to include the provision that all Subcontractors shall pay not less than the prevailing rates to all workers employed by such Subcontractors in the execution of the Work. Contractor shall forfeit to University, as a penalty, not more than \$200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the Work done by Contractor or any Subcontractor. The amount of this penalty shall be determined pursuant to applicable law. Such forfeiture amounts may be deducted from the Contract Sum or sought directly from the surety under its Performance Bond if there are insufficient funds remaining in the Contract Sum. Contractor shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Work, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker. Review of any civil wage and penalty assessment shall be made pursuant to section 1742 of the California Labor Code.

### 14.4 PAYROLL RECORDS

14.4.1 For purposes of this Article 14.4, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.4.2 Contractor and all Subcontractors shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyworker, apprentice, worker, or other employee employed in connection with the Work. All payroll records shall be certified as being true and correct by Contractor or Subcontractors keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of Contractor on the following basis:

- .1 A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or the employee's authorized representative on request.
- .2 A certified copy of all payroll records shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
- .3 A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of Contractor or Subcontractors. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure

of an individual's name, address, and social security number. The name and address of Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

14.4.3 Contractor shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Contractor shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and Contractor shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of this Article 14.4 or with the State of California Labor Code Section 1776, Contractor shall have 10 days in which to comply following receipt of notice specifying in what respects Contractor must comply. Should noncompliance still be evident after the 10 day period, Contractor shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Contract Sum.

See Supplementary Conditions

#### 14.5 APPRENTICES

14.5.1 For purposes of this Article 14.5, the term Subcontractor shall not include suppliers, manufacturers, and distributors.

14.5.2 Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by Contractor and Subcontractors as apprentices. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code, including but not limited to Section 1777.5. The Contractor bears responsibility for compliance with this section for all apprenticeable occupations.

14.5.3 Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only at the Work in the craft or trade to which the apprentice is indentured.

14.5.4 When Contractor or Subcontractors employ workers in any apprenticeship craft or trade on the Work, Contractor or Subcontractors shall 1) send contract award information to the applicable joint apprenticeship committee that can supply apprentices to the site of the public work and 2) apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the area of the Project site, for a certificate approving Contractor or Subcontractors under the apprenticeship standards for the employment and training of apprentices in the area of the Project site. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeypersons who shall be employed in the craft or trade on the Work. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 hour of apprentice work for every 5 hours of journeyman work, except as permitted by law. Contractor or Subcontractors shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeypersons fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.

14.5.5 "Apprenticeship craft or trade," as used in this Article 14.5, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

14.5.6 If Contractor or Subcontractors employ journeyworkers or apprentices in any apprenticeship craft or trade in the area of the Project site, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the Project site are contributing, Contractor and Subcontractors shall contribute to the fund or funds in each craft or trade in which they employ journeyworkers or apprentices on the Work in the same amount or upon the same basis and in the same manner done by the other contractors. Contractor may include the amount of such contributions in computing its bid for the Contract; but if Contractor fails to do so, it shall not be entitled to any additional compensation therefor from University.

14.5.7 In the event Contractor willfully fails to comply with this Article 14.5, it will be considered in violation of the requirements of the Contract.

14.5.8 Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by Contractor or Subcontractors of journeyworker trainees who may receive on-the-job training to enable them to achieve journeyworker status in any craft or trade under standards other than those set forth for apprentices.

#### 14.6 WORK DAY

14.6.1 Contractor shall not permit any worker to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. Contractor shall forfeit to University, as a penalty, \$25 for each worker employed in the execution of this Contract by Contractor, or any Subcontractor, for each day during which such worker is required or permitted to work more than 8 hours in any 1 day and 40 hours in any 1 calendar week in violation of the terms of this Article 14.6 or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the Contract Sum. Contractor and each Subcontractor shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed on the Project, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

#### 14.7 BUY CLEAN CALIFORNIA ACT

14.7.1 The Buy Clean California Act (BCCA) requires the Department of General Services (DGS) to establish and publish the maximum acceptable Global Warming Potential (GWP) on "eligible materials", as described in Public Contract Code 3500 et seq.. As of July 1, 2022, the Contractor shall not install any eligible materials on the project until the Contractor submits a facility-specific Environmental Product Declaration for that material that meets the published GWP requirements.

**ARTICLE 15**  
**MISCELLANEOUS PROVISIONS**

**15.1 GOVERNING LAW**

15.1.1 The Contract shall be governed by the law of the State of California.

**15.2 SUCCESSORS AND ASSIGNS**

15.2.1 University and Contractor respectively bind themselves and their successors, permitted assigns, and legal representatives to the other party and to the successors, permitted assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without prior written consent of the other party. Notwithstanding any such assignment, each of the original contracting parties shall remain legally responsible for all of its obligations under the Contract.

**15.3 RIGHTS AND REMEDIES**

15.3.1 All University's rights and remedies under the Contract Documents will be cumulative and in addition to and not in limitation of all other rights and remedies of University under the Contract Documents or otherwise available at law or in equity.

15.3.2 No action or failure to act by University or University's Representative will constitute a waiver of a right afforded them under the Contract, nor will such action or failure to act constitute approval of or acquiescence in a condition or breach thereunder, except as may be specifically agreed in writing. No waiver by University or University's Representative of any condition, breach or default will constitute a waiver of any other condition, breach or default; nor will any such waiver constitute a continuing waiver.

15.3.3 No provision contained in the Contract Documents shall create or give to third parties any claim or right of action against University, University's Representative, or Contractor.

**15.4 SURVIVAL**

15.4.1 The provisions of the Contract which by their nature survive termination of the Contract or Final Completion, including all warranties, indemnities, payment obligations, and University's right to audit Contractor's books and records, shall remain in full force and effect after Final Completion or any termination of the Contract.

**15.5 COMPLETE AGREEMENT**

15.5.1 The Contract Documents constitute the full and complete understanding of the parties and supersede any previous agreements or understandings, oral or written, with respect to the subject matter hereof. The Contract may be modified only by a written instrument signed by both parties or as provided in Article 7.

**15.6 SEVERABILITY OF PROVISIONS**

15.6.1 If any one or more of the provisions contained in the Contract Documents should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

**15.7 UNIVERSITY'S RIGHT TO AUDIT**

15.7.1 University and entities and agencies designated by University will have access to and the right to audit and the right to copy at University's cost all of Contractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work. Contractor shall preserve all such records and other items during the performance of the Contract and for a period of at least 3 years after Final Completion.

15.7.2 University and entities and agencies designated by University (including the UCIP Administrator and any UCIP insurer) will have access to, and the right to audit and the right to copy at University's cost, Contractor's and all of its Subcontractors' payroll records, books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work.

15.7.3 Without limiting the University's rights as set forth in Article 15.7.2, the right to audit and copy shall apply to insurance coverages, insurance cost information, bid estimates, pricing for any cost in the Contract Sum or any subcontracted work, or any information that Contractor or any Subcontractor provides to University, the UCIP Administrator, or the UCIP insurers as part of the UCIP, for the purpose of confirming the accuracy of such information as it relates to insurance and for the purpose of ensuring that the UCIP coverage provided by the University is not duplicated by any contractor provided coverage with such costs being included in any bid, change order, claim or payment applications for the Work (hereinafter "UCIP Coverage Audit."). Any document produced by a Contractor or Subcontractor as part of a UCIP Coverage Audit that Contractor or Subcontractor believes to be a "trade secret" shall be identified as such by marking the document with a "trade secret" notation or stamp on each page of the document, and by submitting the document(s) to the UCIP Administrator in a sealed envelope marked "trade secret." The University will treat any document marked "trade secret" that was obtained for the limited purpose of a UCIP Coverage Audit as confidential and will not disclose it to any third party (other than in connection with conducting and evaluating the UCIP Coverage Audit), except as required by the California Public Records Act. If a request for a document marked "trade secret" obtained through the UCIP Coverage Audit is made pursuant to the California Public Records Act, the University will give notice to the Contractor so that the Contractor or its Subcontractor may, at such entity's own expense, seek to obtain a court order to prevent public disclosure of the UCIP Coverage Audit information.

15.7.4 Contractor and all Subcontractors shall preserve all documents referred to, and all documents containing information referred to, in this Article 15.7 during the performance of the Contract and for a period of at least 3 years after final completion. Contractor shall require its Subcontractors to comply with this Article 15.7.

**15.8 METHODS OF DELIVERY FOR SPECIFIED DOCUMENTS**



15.8.1 The following documents must be delivered in a manner specified in Article 15.8.2:

- .1 Contractor Notices of election to litigate or arbitrate;
- .2 Written demand for an informal conference to meet and confer pursuant to Article 4.5;
- .3 University's written statement identifying remaining disputes following informal conference pursuant to Article 4.6;
- .4 Written demand for non-binding mediation pursuant to Article 4.6;
- .5 Contractor claims pursuant to Article 4.3;
- .6 Contractor notices of conditions pursuant to Articles 3.17, 3.18, or 3.19;
- .7 University's notices of Contractor's failure to perform and/or correct defective work pursuant to Articles 4.1.6, 12.2 and 13.2.3;
- .8 University's notice to stop work pursuant to Article 2.3.1;
- .9 Notices of termination or suspension pursuant to Article 13.

15.8.2 Delivery methods for documents specified in Article 15.8.1:

- .1 By personal delivery.
- .2 Sent by facsimile copy where receipt is confirmed.
- .3 Sent by Express Mail, or another method of delivery providing for overnight delivery where receipt is confirmed.
- .4 Sent by registered or certified mail, postage prepaid, return receipt requested.

15.8.3 The documents identified in Article 15.8.1 shall only be effective if delivered in the manner specified in Article 15.8.2. Subject to the forgoing, such documents shall be deemed given and received upon actual receipt in the case of all except registered or certified mail; and in the case of registered or certified mail, on the date shown on the return receipt or the date delivery during normal business hours was attempted. Delivery of the specified documents shall be made at the respective street addresses set forth in the Agreement. Such street addresses may be changed by notice given in accordance with this Article 15.8.

#### **15.9 TIME OF THE ESSENCE**

15.9.1 Time limits stated in the Contract Documents are of the essence of the Contract.

#### **15.10 MUTUAL DUTY TO MITIGATE**

15.10.1 University and Contractor shall use all reasonable and economically practicable efforts to mitigate delays and damages to the Project and to one another with respect to the Project, regardless of the cause of such delay or damage.

#### **15.11 UC FAIR WAGE**

15.11.1 Contractor shall pay all persons providing construction services and/or any labor on site, including any University location, no less than the UC Fair Wage (defined as \$15 per hour) and shall comply with all applicable federal, state and local working condition requirements.

#### **15.12 EXECUTION OF AGREEMENT**

15.12.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a digital signature process and shall have the same force and effect as the use of a manual signature. The University reserves the right to reject any digital signature unless it is unique to the person using it, capable of verification, created by public key cryptography or signature dynamics, and meets all requirements of California Government Code § 16.5 and California Code of Regulations 22000 through 22005.

END OF GENERAL CONDITIONS

## SUPPLEMENTARY CONDITIONS

**1. NOT USED**

**1. MODIFICATION OF ARTICLE 3 – CONTRACTOR**

Replace Article 3.12.9 of the General Conditions with the below Article 3.12.9:

**3.12.9 Environmental Product Declarations (BUY CLEAN CALIFORNIA)**

3.12.9.1 Contractor on construction contracts \$1,000,000 and above shall comply with California Public Contract Code Section 3500 et seq., the Buy Clean California Act (“BCCA”).

3.12.9.2 The term “Eligible Materials”, as used herein, shall mean the same as defined by the BCCA, and shall include at a minimum the following materials:

- (1) Carbon steel rebar.
- (2) Flat glass.
- (3) Mineral wool board insulation.
- (4) Structural steel.

3.12.9.3 Compliance with the BCCA and this Article applies to all Eligible Materials for the Project.

3.12.9.4 Contractor shall submit to University a current (as of Notice to Proceed) facility-specific Environmental Product Declaration (“EPD”), Type III, as defined by the International Organization for Standardization (“ISO”) standard 14025, or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each Eligible Material proposed to be used on the Project. The EPD must be specific to the material manufacturer and the facility where the material is manufactured.

3.12.9.5 Eligible Materials installed on the Project by Contractor must comply with any standards to the extent established in the BCCA (and listed on the Department of General Services BCCA site) or by University, whichever is more stringent. The facility-specific global warming potential for any Eligible Material must not exceed any existing maximum acceptable global warming potential for that material pursuant to the BCCA (and listed on the Department of General Services BCCA site) or by University, whichever is more stringent.

3.12.9.6 Contractor shall not install any Eligible Materials on the Project until Contractor submits a facility-specific EPD for that material which demonstrates that the material complies with any existing Eligible Material Standards (as included in the bid documents and as listed on the Department of General Services BCCA site) and this Article and the EPD is approved by the University. Contractor shall be responsible for any losses, expenses, penalties or damages of any type incurred or sustained by University, including but not limited to removal and replacement of Defective Work, which are caused by Contractor’s failure to comply with the requirements of the BCCA or this Article.

3.12.9.7. Eligible exemptions may be approved with submission of a UC BCCA Exemption Form for qualifying exemptions as noted in the Facility Manual.

**2. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 8 – CONTRACT TIME**

Adverse weather in excess of the following number of days will be granted a Contract Time extension pursuant to Article 8.4 of the General Conditions:

January.....	- 6 days	July .....	- 1 day
February .....	- 6 days	August .....	- 0 days
March.....	- 6 days	September .....	- 1 day
April .....	- 3 days	October .....	- 2 days
May.....	- 1 day	November .....	- 3 days
June.....	- 1 day	December .....	- 5 days

**3. NOT USED**

**4. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 11 – INSURANCE AND BONDS**

11.1.1 The UCIP Administrator is listed in the UCIP Manual.

11.1.10.1 The insurance required by 11.1.10.1.1 (Commercial General Liability Insurance) and 11.1.10.1.2 (Commercial Automobile Liability Insurance) shall be (i) issued by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's).

The insurance required by 11.1.10.1.3 (Workers' Compensation And Employer's Liability Insurance) shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's); or (ii) that are acceptable to the University.

The following Article is added to the General Conditions pursuant to Article 11.1.10.1.4:

11.1.10.1.5 The Contractor shall obtain, either itself or through the applicable Subcontractor(s) performing Work involving hazardous materials, Contractor's Pollution Liability (CPL) insurance coverage for such Work AND an endorsement to either its CPL or Business Auto policies for transporting or hauling of hazardous materials. The insurance required by this paragraph shall be (i) issued by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's). Such CPL insurance shall be written for not less than the following minimum limits:

<u>CONTRACTOR'S POLLUTION LIABILITY – Limits of Liability</u>	<u>Minimum Requirements</u>
Each Loss .....	\$(TBD)
Policy Aggregate .....	\$(TBD)

Such CPL insurance shall, by endorsement to the policies, also include the following:

- .1 The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants shall be included as additional insureds on a primary non-contributory basis.
- .2 As to all liability insurance policies, each shall include a waiver of subrogation endorsement evidencing that the Contractor and/or Subcontractor waives all rights of recovery by subrogation against University, University's Representative, University's Representative's consultants, their respective officers, agents, or employees.
- .3 Except with respect to the limits of insurance, Contractor and Subcontractor required insurance shall apply separately to each insured or additional insured.
- .4 Coverage for Emergency Response Costs, with a 72-hour minimum time frame.
- .5 Coverage for Crisis Management, Public Relations Management or Equivalent.
- .6 Coverage for Mold and Fungi.
- .7 Coverage for transportation of hazardous materials.
- .8 Coverage for non-owned hazardous material disposal sites.

If coverage is provided on an Occurrence form, Contractor and/or Subcontractor shall maintain and show evidence of coverage while Work involving hazardous materials is being completed, to include Completed Operations liability coverage for a minimum period of ten (10) years or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less.

If coverage is provided on a Claims-Made form, Contractor shall maintain and show evidence of coverage while Work involving hazardous materials is being completed to include a ten (10)-year Extended Reporting Period from the completion of contracted services.

Coverage must extend to Transportation and Hauling of hazardous materials. The University shall require a copy of the policy endorsement noting extension of Transportation coverage. If this extension of coverage is not provided under the Contractor's or applicable Subcontractor's



The following new Subparagraph 14.4.4 is added to Article 14.4:

- 14.4.4 Contractor and every Subcontractor required to submit certified payrolls shall use the web-based electronic certified payroll reporting (eCPR) system to be named by University. The software shall be a web-based eCPR system accessed by a web browser. Contractor and each Subcontractor will be furnished a log-on identification and password to access University's reporting system. Use of the system may entail additional data entry of weekly payroll information including, without limitation: employee identification, labor classification, total hours worked and hours worked on the project, wage and benefit rates paid, etc. The required software shall be used regardless of the ability to interface with Contractor's or Subcontractor's payroll and accounting software or system. On-line training in the use of the system will be available via the Internet. University may elect to schedule training classes in the use of the software and Contractor shall have all necessary personnel attend and shall require attendance by all Subcontractors.

END OF SUPPLEMENTARY CONDITIONS

## **GENERAL CONDITIONS**

**UNIVERSITY OF CALIFORNIA  
LOS ANGELES CAMPUS  
LOS ANGELES, CALIFORNIA**

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**ARTICLE 1**  
**GENERAL PROVISIONS**

**1.1 BASIC DEFINITIONS**

**1.1.1 APPLICABLE CODE REQUIREMENTS**

The term "Applicable Code Requirements" means all laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, CM/Contractor, any Subcontractor, the Project, the Project Site, the Work, or the prosecution of the Work including without limitation the requirements set forth in Article 3.7 of the General Conditions.

**1.1.2 APPLICATION FOR PAYMENT**

The term "Application for Payment" means the submittal from CM/Contractor wherein payment for certain portions of the completed Work is requested in accordance with Article 9 of the General Conditions.

**1.1.3 ANTICIPATED CONTRACT VALUE**

The term "Anticipated Contract Value" means the amount that the University anticipates the Work will cost at Final Completion.

**1.1.4 BENEFICIAL OCCUPANCY**

The term "Beneficial Occupancy" means the University's occupancy or use of any part of the Work in accordance with Article 9 of the General Conditions.

**1.1.5 BID PACKAGE**

The term "Bid Package" means a part of the Construction Work represented by a particular Design Package prepared by the University's Design Professional, and reviewed by the CM/Contractor in Phase 1 per the Scope of Work, and performed by CM/Contractor's Subcontractors or self-performed. All Bid Packages will be incorporated into the Contract by Contract Amendment and the price thereof will, together with the CM/Contractor's Option Sum - Phase 2, be the total amount due the CM/Contractor.

**1.1.6 CERTIFICATE FOR PAYMENT**

The term "Certificate for Payment" means the form signed by University's Representative attesting to the CM/Contractor's right to receive payment for certain completed portions of the Work in accordance with Article 9 of the General Conditions.

**1.1.7 CHANGE ORDER**

See Article 7.2 of the General Conditions.

**1.1.8 CLAIM**

See Article 4.3 of the General Conditions.

**1.1.9 CM/CONTRACTOR**

The term "CM/Contractor" means the person or firm identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**1.1.10 CM/CONTRACTOR BASE FEE**

The term "CM/Contractor Base Fee" means the price the CM/Contractor has included in his Option Sum - Phase 2 that represents all costs for the following items incurred in performing the Construction Work:

- .1 Salaries, or other compensation, of the CM/Contractor's officers, executives or other supervisory personnel at the CM/Contractor's Home Office.
- .2 All expenses of the CM/Contractor in connection with maintaining and operating its Home Office of CM/Contractor other than field office of the Project.
- .3 Any part of the CM/Contractor's capital expenses, including interest on the CM/Contractor's capital employed for the Work.
- .4 Except as specifically provided elsewhere in the Contract Documents, rental costs of machinery and equipment.
- .5 Profit, overhead or general expenses of any kind, except as may be expressly included elsewhere in the Contract Documents, including Home Office supervision of all subcontracted work.
- .6 Payments made by CM/Contractor to its employees or personnel on account of merit bonuses.
- .7 All salaries, cost and expenses incurred by CM/Contractor in estimating and preparing estimates, administration of the Construction Work and all other cost data and preparation required by University, exclusive of the time involving the CM/Contractor's field forces engaged in the actual field performance of the Construction Work.
- .8 All cost and expenses of purchasing and expediting all purchase orders, exclusive of the time involving the CM/Contractor's field forces engaged in the actual field performance of the Construction Work.
- .9 All cost and expenses of supervision and administration of progress and cost control by executives above the level of Project Manager.

- .10 General accounting, auditing and billing to University, Subcontractors and purchase orders, payment of voucher costs, and payment of labor taxes and insurance.
- .11 Supervision of insurance and taxation matters.
- .12 All travel expenses of CM/Contractor's officers and executives, and relocation costs of personnel involved in the Project.
- .13 All expenses paid or incurred for purchase or rental of office equipment, stationery, stamps and office supplies of any kind or nature whatsoever for Home Office.
- .14 All costs of any business licenses required by CM/Contractor, and all dues, assessments and contributions paid or payable to CM/Contractor's technical or trade associations.
- .15 All cost of insurance on tools and equipment owned or furnished by CM/Contractor; taxes assessed against property and equipment of CM/Contractor which is not to be incorporated into the Project; taxes on gross income, except gross receipts tax, profit and net income of CM/Contractor; and interest or money borrowed or furnished by CM/Contractor.
- .16 All cost of Subcontractor performance or payment bonds, or insurance in lieu thereof.
- .17 Storage costs at yards owned and leased by CM/Contractor, except any yard leased by CM/Contractor on a short-term basis solely for purposes of the Project, with University's prior written approval.
- .18 All costs incurred by CM/Contractor in violation of any terms, provision, or agreement set forth in the Contract Documents.
- .19 Consultations with University and its Design Professionals, and other consultants engaged by the University with respect to the Construction Work.

1.1.11 COMPENSABLE DELAY

The term "Compensable Delay" means a delay that entitles the CM/Contractor to an adjustment of the Contract Sum and an adjustment of the Contract Time pursuant to Articles 7 and 8 of the General Conditions.

1.1.12 CONSTRUCTION WORK

The term "Construction Work" means that portion of the Work consisting of the provision of labor, materials, furnishings, equipment and services in connection with the construction of the Project as set forth in the Contract Documents, including, without limitation, all CM/Contractor Base Fee, General Conditions Work, and Bid Packages.

1.1.13 CONTRACT

The term "Contract" shall have the meaning identified in Article 3 of the Agreement.

1.1.14 CONTRACT AMENDMENT

The term "Contract Amendment" means the contract instrument to modify the Contract to exercise the Option or to include Bid Packages.

1.1.15 CONTRACT DOCUMENTS

The term "Contract Documents" means all documents listed in Article 3 of the Agreement, as modified by Change Order, including but not limited to the Drawings and Specifications.

1.1.16 CONTRACT SCHEDULE

The term "Contract Schedule" means the graphical representation of a practical plan, in accordance with the Specifications, to perform and complete the Work within the Contract Time in accordance with Article 3 of the General Conditions.

1.1.17 CONTRACT SUM

The term "Contract Sum" means the amount of compensation stated in the Agreement for the performance of the Work, as adjusted by Change Order or Contract Amendment.

1.1.18 CONTRACT TIME

The term "Contract Time" means the number of days set forth in the Agreement, as adjusted by Change Order or Contract Amendment, within which CM/Contractor must achieve Final Completion of the Work.

1.1.19 CM/CONTRACTOR FEE

See Article 7.3 of the General Conditions.

1.1.20 COST OF EXTRA WORK

See Article 7.3 of the General Conditions.

1.1.21 DAY

The term "day," as used in the Contract Documents, shall mean calendar day, unless otherwise specifically provided.

**1.1.22 DEFECTIVE WORK**

The term "Defective Work" means work that is unsatisfactory, faulty, omitted, incomplete, deficient, or does not conform to the requirements of the Contract Documents, directives of University's Representative, or the requirements of any inspection, reference standard, test, or approval specified in the Contract Documents.

**1.1.23 DESIGN/CONSTRUCTION OVERLAP DURATION**

The term "Design/Construction Overlap Duration" is the maximum period of time stipulated in the Contract Documents that the University will allow Phase 2 to start prior to the scheduled completion of Phase 1. See Agreement Article 5 for the specified time period for Design/Construction Overlap Duration.

**1.1.24 DESIGN PACKAGE**

The term "Design Package" means the Drawings and Specifications for a component of the Construction Work as shown on the Project Schedule Exhibit.

**1.1.25 DESIGN PROFESSIONAL**

The term "Design Professional" means the individuals or entities who University has hired to provide architectural, engineering, and other professional services required for the coordinated design of the Project.

**1.1.26 DESIGN WORK**

The term "Design Work" means the work performed by Design Professional(s) to produce Bid Packages and a coordinated design for the Project; which incorporates University approved input by CM/Contractor resulting from its Phase 1 Pre-Construction Services.

**1.1.27 DRAWINGS**

The term "Drawings" means the graphic and pictorial portions of the Contract Documents showing the design, location, and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams. The Drawings are listed in the List of Drawings.

**1.1.28 EXCUSABLE DELAY**

The term "Excusable Delay" means a delay that entitles the CM/Contractor to an adjustment of the Contract Time but not an adjustment of the Contract Sum, pursuant to Articles 7 and 8 of the General Conditions.

**1.1.29 EXTRA WORK**

The term "Extra Work" means Work beyond or in addition to the Work required by the Contract Documents.

**1.1.30 FIELD ORDER**

See Article 7.2 of the General Conditions.

**1.1.31 FINAL COMPLETION**

The term "Final Completion" means the date at which the Construction Work has been fully completed in accordance with the requirements of the Contract Documents pursuant to Article 9.8.1 of the General Conditions.

**1.1.32 GENERAL CONDITIONS WORK**

The term "General Conditions Work" means all work and associated cost to complete the Construction Work that is not included in CM/Contractor's Base Fee or in Bid Packages; including, but not limited to, items required by the exhibits. All costs for General Conditions Work incurred in performing the Contract shall be included in the CM/Contractor's Option Sum - Phase 2.

**1.1.33 GUARANTEE TO REPAIR PERIOD**

See Article 12.2 of the General Conditions.

**1.1.34 HAZARDOUS MATERIAL**

The term "Hazardous Material" means any substance or material identified as hazardous under any California or federal statute governing handling, disposal and/or cleanup of any such substance or material.

**1.1.35 HOME OFFICE**

The term "Home Office" means any and all offices, including but not limited to principal, branch, or main office, the CM/Contractor may have before or during the Work, except its field office for this Project.

**1.1.36 MAXIMUM ANTICIPATED CONTRACT VALUE**

The term "Maximum Anticipated Contract Value" means the maximum amount that the University anticipates the Work will cost at Final Completion.

**1.1.37 NOTICE OF INTENT**

The term "Notice of Intent" means the notice given by the University's Representative that the University intends to exercise its Option for Phase 2. This notice shall provide time for the CM/Contractor to submit certain Contract Documents prior to a Contract Amendment being issued for Phase 2.

**1.1.38 OPTION**

See Article 2 of the Agreement and Article 16 of these General Conditions.

1.1.39 OPTION SUM – PHASE 2  
See Article 4 of the Agreement.

1.1.40 PHASE 2 TIME  
See Article 5 of the Agreement.

1.1.41 PRE-CONSTRUCTION SERVICES  
The term "Pre-Construction Services" means the services provided by the CM/Contractor under Phase 1 of the Scope of Work. The Pre-Construction Services shall continue through Design/Construction Overlap Duration, if any, after the University's Option for Phase 2 is exercised.

1.1.42 PROJECT  
The term "Project" means the Work of the Contract and all other work, labor, equipment, and materials necessary to accomplish the Project. The Project may include construction by University or by Separate Contractors.

1.1.43 PROJECT SITE  
The term "Project Site" or "Project site" or "Site" or "site" means lands and facilities upon which the Work pertaining to physical construction operations is performed, including such access and other lands and facilities designated in the Contract Documents for use by CM/Contractor.

1.1.44 SEPARATE CONTRACTOR  
The term "Separate Contractor" means a person or firm under separate contract with University performing other work related to the Project.

1.1.45 SHOP DRAWINGS, PRODUCT DATA, AND SAMPLES  
See Article 3.12 of the General Conditions.

1.1.46 SPECIFICATIONS  
The term "Specifications" means that portion of the Contract Documents consisting of the written requirements for materials, equipment, construction systems, standards and workmanship for the Work, and performance of related services.

1.1.47 SUBCONTRACTOR  
The term "Subcontractor" means a person or firm that has a contract with CM/Contractor or with a Subcontractor to perform a portion of the Work. Unless otherwise specifically provided, the term Subcontractor includes Subcontractors of all tiers.

1.1.48 SUBSTANTIAL COMPLETION  
See Article 9.7 of the General Conditions.

1.1.49 SUPERINTENDENT  
The term "Superintendent" means the person designated by CM/Contractor to represent CM/Contractor at the Project Site in accordance with Article 3 of the General Conditions.

1.1.50 TIER  
The term "tier" means the contractual level of a Subcontractor or supplier with respect to CM/Contractor. For example, a first-tier Subcontractor is under subcontract with CM/Contractor, a second-tier Subcontractor is under subcontract with a first-tier Subcontractor, and so on.

1.1.51 UNEXCUSABLE DELAY  
The term "Unexcusable Delay" means a delay that does not entitle the CM/Contractor to an adjustment of the Contract Sum and does not entitle the CM/Contractor to an adjustment of the Contract Time.

1.1.52 UNILATERAL CHANGE ORDER  
See Article 7.2 of the General Conditions.

1.1.53 UNIVERSITY  
The term "University" means The Regents of the University of California.

1.1.54 UNIVERSITY'S BUILDING OFFICIAL  
The term "University's Building Official," or "Certified Building Official," means the individual the University has designated to act in the capacity as the "Building Official" as defined by the California Building Standards Code. The University's Building Official will determine whether the Work complies with Applicable Code Requirements and will determine whether and when it is appropriate to issue a Certificate of Occupancy.

1.1.55 UNIVERSITY'S REPRESENTATIVE  
The term "University's Representative" means the person identified as such in the Agreement.

1.1.56 UNIVERSITY'S RESPONSIBLE ADMINISTRATOR  
The term "University's Responsible Administrator" means the person, or his or her authorized designee, who is authorized to execute the Agreement, Change Order, Contract Amendment, Field Order and other applicable Contract Documents on behalf of the University.

1.1.57 WORK

The term "Work" means the Pre-Construction Services and all Construction Work and other requirements of the Contract Documents as modified by Change Order or Contract Amendment, whether completed or partially completed, and includes all labor, materials, equipment, tools, and services provided, or to be provided by, CM/Contractor to fulfill CM/Contractor's obligations without limitation. The Work may constitute the whole or a part of the Project.

**1.2 OWNERSHIP AND USE OF CONTRACT DOCUMENTS**

1.2.1 The Contract Documents and all copies thereof furnished to or provided by CM/Contractor are the property of the University and are not to be used by CM/Contractor on other work.

**1.3 INTERPRETATION**

1.3.1 The Contract Documents are complementary and what is required by one shall be as binding as if required by all. In the case of conflict between terms of the Contract Documents, the following order of precedence shall apply:

- .1 The Agreement
- .2 The Supplementary Conditions
- .3 The General Conditions
- .4 The Specifications
- .5 The Drawings

1.3.2 With respect to the Drawings, figured dimensions shall control over scaled measurements and specific details shall control over typical or standard details.

1.3.3 With respect to the Contract Documents, Addenda shall govern over other portions of the Contract Documents to the extent specifically noted; subsequent Addenda shall govern over prior Addenda only to the extent specifically noted.

1.3.4 Organization of the Specifications into various subdivisions and the arrangement of the Drawings shall not control CM/Contractor in dividing the Construction Work among Subcontractors or in establishing the extent of work to be performed by any trade.

1.3.5 Unless otherwise stated in the Contract Documents, technical words and abbreviations contained in the Contract Documents are used in accordance with commonly understood construction industry meanings; and non-technical words and abbreviations are used in accordance with their commonly understood meanings.

1.3.6 The Contract Documents may omit modifying words such as "all" and "any," and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement. The use of the word "including," when following any general statement, shall not be construed to limit such statement to specific items or matters set forth immediately following such word or to similar items or matters, whether or not non-limiting language (such as "without limitation," "but not limited to," or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such general statement.

1.3.7 Whenever the context so requires, the use of the singular number shall be deemed to include the plural and vice versa. Each gender shall be deemed to include any other gender, and each shall include corporation, partnership, trust, or other legal entity whenever the context so requires. The captions and headings of the various subdivisions of the Contract Documents are intended only for reference and convenience and in no way define, limit, or prescribe the scope or intent of the Contract Documents or any subdivision thereof.

**ARTICLE 2**  
**UNIVERSITY**

**2.1 INFORMATION AND SERVICES PROVIDED BY UNIVERSITY**

2.1.1 If required for performance of the Work, as determined by University's Representative, University will make available a survey describing known physical characteristics, boundaries, easements, and utility locations for the Project Site.

2.1.2 University is not subject to any requirement to obtain or pay for local building permits, inspection fees, plan checking fees, or certain utility fees. Except as otherwise provided in the Contract Documents, University will obtain and pay for any utility permits, demolition permits, easements, and government approvals for the use or occupancy of permanent structures required in connection with the Construction Work.

2.1.3 CM/Contractor will be furnished, free of charge, such copies of the Contract Documents, as University deems reasonably necessary for execution of the Work.

**2.2 ACCESS TO PROJECT SITE**

2.2.1 University will provide access to the lands and facilities upon which the Construction Work is to be performed at the time it exercises its Option for Phase 2, including such access and other lands and facilities designated in the Contract Documents for use by CM/Contractor.

**2.3 UNIVERSITY'S RIGHT TO STOP THE WORK**

2.3.1 If CM/Contractor fails to correct Defective Work as required by Article 12.2 of the General Conditions or fails to perform the Work in accordance with the Contract Documents, University or University's Representative may direct CM/Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated by CM/Contractor. CM/Contractor shall not be entitled to any adjustment of Contract Time or Contract Sum as a result of any such order. University and University's Representative have no duty or responsibility to CM/Contractor or any other party to exercise the right to stop the Work.

**2.4 UNIVERSITY'S RIGHT TO CARRY OUT THE WORK**

2.4.1 If CM/Contractor fails to carry out the Work in accordance with the Contract Documents, fails to provide sufficient labor, materials, equipment, tools, and services to maintain the Contract Schedule, or otherwise fails to comply with any material term of the Contract Documents, and , after receipt of written notice from University, fails within 2 days, excluding Saturdays, Sundays and legal holidays, or within such additional time as the University may specify, to correct such failure, University may, without prejudice to other remedies University may have, correct such failure at CM/Contractor's expense. In such case, University will be entitled to deduct from payments then or thereafter due CM/Contractor the cost of correcting such failure, including without limitation compensation for the additional services and expenses of University's consultants made necessary thereby. If payments then or thereafter due CM/Contractor are not sufficient to cover such amounts, CM/Contractor shall pay the additional amount to University.

**2.5 UNIVERSITY'S RIGHT TO REPLACE UNIVERSITY'S REPRESENTATIVE**

2.5.1 University may at any time and from time to time, without prior notice to or approval of CM/Contractor, replace University's Representative with a new University's Representative. Upon receipt of notice from University informing CM/Contractor of such replacement and identifying the new University's Representative, CM/Contractor shall recognize such person or firm as University's Representative for all purposes under the Contract Documents.

**ARTICLE 3**  
**CM/CONTRACTOR**

**3.1 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CM/CONTRACTOR**

3.1.1 CM/Contractor and its Subcontractors shall carefully study and compare each of the Contract Documents with the others and with information furnished or made available by University, and shall promptly report in writing to University's Representative any errors, inconsistencies, or omissions in the Contract Documents or inconsistencies with Applicable Code Requirements observed by CM/Contractor or its Subcontractors.

3.1.2 CM/Contractor and its Subcontractors shall take field measurements, verify field conditions, and carefully compare with the Contract Documents such field measurements, conditions, and other information known to CM/Contractor before commencing any item of Construction Work. Errors, inconsistencies, or omissions discovered at any time shall be promptly reported in writing to University's Representative.

3.1.3 If CM/Contractor and its Subcontractors performs any construction activity involving an error, inconsistency, or omission referred to in Articles 3.1.1 and 3.1.2 of the General Conditions, without giving the notice required in those Articles and obtaining the written consent of University's Representative, CM/Contractor shall be responsible for the resultant losses, including, without limitation, the costs of correcting Defective Work.

3.1.4 CM/Contractor, as part of the Scope of Work in the Exhibits, has assisted the University in preparing Contract Documents for Bid Packages that will be incorporated into the Contract by Contract Amendment. CM/Contractor shall be responsible for all Losses attributable to the errors or omissions of the CM/Contractor in the performance of Pre-Construction Services and all services required in the preparation of the various Bid Packages.

**3.2 SUPERVISION AND CONSTRUCTION PROCEDURES**

3.2.1 CM/Contractor shall supervise, coordinate, and direct the Construction Work using CM/Contractor's best skill and attention. CM/Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Construction Work. CM/Contractor shall manage and administer all phases of construction activities to achieve the completion of all Bid Packages within the requirements of the Contract Documents. The CM/Contractor shall coordinate the work of its Subcontractors to optimize efficiency and minimize conflict and interference between the various Subcontractors on-site.

3.2.2 CM/Contractor shall be responsible to University for acts and omissions of CM/Contractor's agents, employees, and Subcontractors, and their respective agents and employees.

3.2.3 CM/Contractor shall not be relieved of its obligation to perform the Construction Work in accordance with the Contract Documents either by acts or omissions of University or University's Representative in the administration of the Contract, or by tests, inspections, or approvals required or performed by persons or firms other than CM/Contractor.

3.2.4 CM/Contractor shall be responsible for inspection of all portions of the Construction Work, including those portions already performed under this Contract, to determine that such portions conform to the requirements of the Contract Documents and are ready to receive subsequent Construction Work.

3.2.5 CM/Contractor shall at all times maintain good discipline and order among its employees and Subcontractors. CM/Contractor shall provide competent, fully qualified personnel to perform the Work.

3.2.6 CM/Contractor's responsibility shall include assuring that its Subcontractors are meeting all the terms of the Contract Documents. CM/Contractor shall provide on-site quality control and inspection to ensure compliance with documents, drawings and contract specifications, schedule coordination and information coordination for all construction activities on the construction site including all General Conditions Work. CM/Contractor shall schedule and coordinate testing and inspection services. This will include coordination with the Subcontractors of the scheduling of all University's Representative inspections, Fire Marshal, Test Labs, Materials Inspectors and other inspections as required. Prior to close-up of concealed areas, the CM/Contractor shall coordinate all Campus Fire Marshal, OSHPD, and all other applicable inspections with the University's Representative and create a punch list and distribute to all affected Subcontractors.

3.2.7 CM/Contractor shall coordinate all required utility shut downs, road closures, traffic closures, and the like. This coordination shall follow procedures at the Facility, and or direction as provided by the University's Representative.

### **3.3 LABOR AND MATERIALS**

3.3.1 Unless otherwise provided in the Contract Documents, CM/Contractor shall provide and pay for all labor, services, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and Final Completion of the Construction Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Construction Work.

### **3.4 CM/CONTRACTOR'S WARRANTY**

3.4.1 CM/Contractor warrants to University that all materials and equipment used in or incorporated into the Construction Work will be of good quality, new, and free of liens, claims, and security interests of third parties; that the Construction Work will be of good quality and free from defects; and that the Construction Work will conform with the requirements of the Contract Documents. If required by University's Representative, CM/Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

3.4.2 The CM/Contractor shall assure that there is no damage of existing utilities; and protect trees and root systems both during demolition and construction.

### **3.5 TAXES**

3.5.1 CM/Contractor shall pay all sales, consumer, use, and similar taxes for the Work or portions thereof provided by CM/Contractor.

### **3.6 PERMITS, FEES, AND NOTICES**

3.6.1 Except for the permits and approvals which are to be obtained by University or the requirements with respect to which University is not subject as provided in Article 2.1.2 of the General Conditions, CM/Contractor shall secure and pay for all permits, approvals, government fees, licenses, and inspections necessary for the proper execution and performance of the Construction Work. CM/Contractor shall deliver to University all original licenses, permits, and approvals obtained by CM/Contractor in connection with the Construction Work prior to the final payment or upon termination of the Contract, whichever is earlier.

### **3.7 APPLICABLE CODE REQUIREMENTS**

3.7.1 CM/Contractor shall perform the Construction Work in accordance with the following Applicable Code Requirements:

- .1 All laws, statutes, the most recent building codes, ordinances, rules, regulations, and lawful orders of all public authorities having jurisdiction over University, CM/Contractor, any Subcontractor, the Project, the Project Site, the Construction Work, or the prosecution of the Construction Work.
- .2 All requirements of any insurance company issuing insurance required hereunder.
- .3 The Federal Occupational Safety and Health Act and all other Applicable Code Requirements relating to safety.
- .4 Applicable titles in the State of California Code of Regulations.
- .5 Applicable sections in the State of California Labor Code.

- .6 All Applicable Code Requirements relating to nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day.

3.7.2 Without limiting the foregoing, CM/Contractor shall comply with the provisions regarding nondiscrimination, payment of prevailing wages, payroll records, apprentices, and work day set forth in Article 14 of the General Conditions.

3.7.3 CM/Contractor shall comply with and give notices required by all Applicable Code Requirements, including all environmental laws and all notice requirements under the State of California Safe Drinking Water and Enforcement Act of 1986 (State of California Health and Safety Code Section 25249.5 and applicable sections that follow). CM/Contractor shall promptly notify University's Representative in writing if CM/Contractor becomes aware during the performance of the Work that the Contract Documents are at variance with Applicable Code Requirements.

3.7.4 If CM/Contractor performs Construction Work which it knows or should know is contrary to Applicable Code Requirements, without prior notice to University and University's Representative, CM/Contractor shall be responsible for such Construction Work and any resulting damages including, without limitation, the costs of correcting Defective Work.

### **3.8 SUPERINTENDENT AND KEY PERSONNEL**

3.8.1 CM/Contractor shall employ a competent Superintendent satisfactory to University who shall be in attendance at the Project Site at all times during the performance of the Construction Work. Superintendent shall represent CM/Contractor and communications given to and received from Superintendent shall be binding on CM/Contractor. Failure to maintain a Superintendent on the Project Site at all times Construction Work is in progress shall be considered a material breach of this Contract, entitling University to terminate the Contract or alternatively, issue a stop Construction Work order until the Superintendent is on the Project Site. If, by virtue of issuance of said stop Work order, CM/Contractor fails to complete the Contract on time, CM/Contractor will be assessed Liquidated Damages in accordance with the Agreement.

3.8.2 The Superintendent approved for the Project must be able to read, write and verbally communicate in English. The superintendent may not perform the Construction Work of any trade, pick-up materials, or perform any Construction Work not directly related to the supervision and coordination of the Construction Work at the Project Site when Construction Work is in progress.

3.8.3 CM/Contractor shall provide the Key Personnel, in addition to the Superintendent, as named in the Key Personnel Exhibit to this Contract. Substitution or replacement of any named individual requires the written approval of the University's Representative and approval will be at the sole discretion of University. Failure to provide the listed individuals at all times Work is in progress shall be considered a material breach of this Contract unless the named individuals are no longer employed or retained by CM/Contractor, a company CM/Contractor has a financial interest in, or a parent company of CM/Contractor; such material breach shall entitle University to terminate the Contract or alternatively, issue a Stop Work order until the individual or an acceptable replacement is provided. If, by virtue of issuance of said Stop Work order, CM/Contractor fails to complete the Contract on time, CM/Contractor will be assessed Liquidated Damages in accordance with the Agreement.

### **3.9 SCHEDULES REQUIRED OF CM/CONTRACTOR**

3.9.1 CM/Contractor shall submit a Preliminary Contract Schedule to University's Representative in the form and within the time limit required by the Specifications. University's Representative will review the Preliminary Contract Schedule with CM/Contractor within the time limit required by the Specifications, or, if no such time period is specified, within a reasonable period of time.

3.9.2 CM/Contractor shall submit a Contract Schedule and updated Contract Schedules to University's Representative in the form and within the time limits required by the Specifications and acceptable to University's Representative. University's Representative will determine acceptability of the Contract Schedule and updated Contract Schedules within the time limits required by the Specifications, or if no such time period is specified, within a reasonable period of time. If University's Representative deems the Contract Schedule or updated Contract Schedule unacceptable, it shall specify in writing to CM/Contractor the basis for its objection.

3.9.3 The Preliminary Contract Schedule, the Contract Schedule, and updated Contract Schedules shall represent a practical plan to complete the Work within the Contract Time and/or Phase 2 Time. Schedules showing the Work completed in less than the Contract Time and/or Phase 2 Time may be acceptable if judged by University's Representative to be practical. Schedules showing the Work completed beyond the Contract Time may be submitted under the following circumstances:

- .1 If accompanied by a Change Order Request seeking an adjustment of the Contract Time consistent with the requirements of paragraph 8.4 for Adjustment of the Contract Time for Delay; or
- .2 If the Contract Time has passed, or if it is a practical impossibility to complete the Work within the Contract Time, then the updated Contract Schedule or Fragnet schedule shall show completion at the earliest practical date.

University's Representative will timely review the updated Contract Schedule or Fragnet Schedule submitted by CM/Contractor. If University's Representative determines that additional supporting data are necessary to fully evaluate the updated Contract Schedule or Fragnet Schedule, University's Representative will request such additional supporting data in writing. Such data shall be furnished no later than 10 days after the date of such request. University's Representative will render a decision promptly and in any case within 30 days after the later of the receipt of the updated Contract Schedule or Fragnet Schedule or the deadline for furnishing such additional supporting data. Failure of University's Representative to render a decision by the applicable deadline will be deemed a decision denying approval of the updated Contract Schedule or Fragnet Schedule. Acceptance of any schedule showing completion beyond the Contract Time by University's Representative shall not change the Contract Time and/or Phase 2 Time and is without prejudice to any right of the



University. The Contract Time, not the Contract Schedule, shall control in the determination of liquidated damages payable by CM/Contractor under Article 5 and Article 6 of the Agreement and in the determination of any delay under Article 8 of the General Conditions.

3.9.4 If a schedule showing the Work completed in less than the Contract Time and/or Phase 2 Time is accepted, CM/Contractor shall not be entitled to extensions of the then current Contract Time for Excusable Delays or Compensable Delays or to adjustments of the Contract Sum for Compensable Delays until such delays extend the Final Completion of the Work beyond the expiration of the then current Contract Time.

3.9.5 CM/Contractor shall prepare and keep current, to the reasonable satisfaction of University's Representative, a Submittal Schedule in the form contained in the Exhibits, for each submittal, as required by the Specifications, and that are coordinated with the other activities in the Contract Schedule.

3.9.6 The Preliminary Contract Schedule, Contract Schedule, and the Updated Contract Schedules shall meet the following requirements:

- .1 Schedules must be suitable for monitoring progress of the Work.
- .2 Schedules must provide necessary data about the timing for University decisions and University-furnished items.
- .3 Schedules must be in sufficient detail to demonstrate adequate planning for the Work.
- .4 Schedules must represent a practical plan to perform and complete the Work within the Contract Time.

University's Representative's review of the form and general content of the Preliminary Contract Schedule, Contract Schedule, and Updated Contract Schedules is for the purpose of determining if the above-listed requirements have been satisfied.

3.9.7 CM/Contractor shall plan, develop, supervise, control, and coordinate the performance of the Construction Work so that its progress and the sequence and timing of Construction Work will permit its completion within the Contract Time, any Contract milestones and any Contract phases.

3.9.8 In preparing the Preliminary Contract Schedule, the Contract Schedule, and updated Contract Schedules, CM/Contractor shall obtain such information and data from Subcontractors as may be required to develop a reasonable and appropriate schedule for performance of the work and shall provide such information and data to the University's Representative upon request. CM/Contractor shall continuously obtain from Subcontractors information and data about the planning for and progress of the Construction Work and the delivery of equipment, shall coordinate and integrate such information and data into updated Contract Schedules, and shall monitor the progress of the Construction Work and the delivery of equipment.

3.9.9 CM/Contractor shall act as the expeditor of potential and actual delays, interruptions, hindrances, or disruptions for its own forces and those forces of Subcontractors, regardless of tier. CM/Contractor shall cooperate with University's Representative in the development of the Contract Schedule and updated Contract Schedules.

3.9.10 University's Representative's acceptance of or its review comments about any schedule or scheduling data shall not relieve CM/Contractor from its sole responsibility to plan for, perform, and complete the Work within the Contract Time. Acceptance of or review comments about any schedule shall not transfer responsibility for any schedule to University's Representative or University nor imply their agreement with (1) any assumption upon which such schedule is based or (2) any matter underlying or contained in such schedule.

3.9.11 Failure of University's Representative to discover errors or omissions in schedules that it has reviewed, or to inform CM/Contractor that CM/Contractor, Subcontractors, or others are behind schedule, or to direct or enforce procedures for complying with the Contract Schedule shall not relieve CM/Contractor from its sole responsibility to perform and complete the Work within the Contract Time and shall not be a cause for an adjustment of the Contract Time or the Contract Sum.

### **3.10 AS-BUILT DOCUMENTS**

3.10.1 CM/Contractor shall maintain one set of As-built drawings and specifications, which shall be kept up to date during the Construction Work of the Contract. All changes which are incorporated into the Construction Work which differ from the documents as drawn and written shall be noted on the As-built set. Notations shall reflect the actual materials, equipment and installation methods used for the Construction Work and each revision shall be initialed and dated by Superintendent. Prior to filing of the Notice of Completion each drawing and the specification cover shall be signed by CM/Contractor and dated attesting to the completeness of the information noted therein. As-built Documents shall be turned over to the University's Representative and shall become part of the Record Documents.

### **3.11 DOCUMENTS AND SAMPLES AT PROJECT SITE**

3.11.1 CM/Contractor shall maintain the following at the Project Site:

- .1 One as-built copy of the Contract Documents, in good order and marked to record current changes and selections made during construction
- .2 The current accepted Contract Schedule

- .3 Shop Drawings, Product Data, and Samples
- .4 All other required submittals

These documents shall be available to University's Representative and shall be delivered to University's Representative for submittal to University upon the earlier of Final Completion or termination of the Contract.

**3.12 SHOP DRAWINGS, PRODUCT DATA, SAMPLES, AND ENVIRONMENTAL PRODUCT DECLARATIONS**

3.12.1 Definitions:

- .1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Construction Work by CM/Contractor or a Subcontractor to illustrate some portion of the Construction Work.
- .2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by CM/Contractor to illustrate or describe materials or equipment for some portion of the Construction Work.
- .3 Samples are physical examples which illustrate materials, equipment, or workmanship and establish standards by which the Construction Work will be judged.
- .4 Environmental Product Declarations are those documents and other submissions required to be furnished by CM/Contractor or a Subcontractor pursuant to California Public Contract Code Section 3500 et seq., the Buy Clean California Act (BCCA), as further described in Article 3.12.9 below.

3.12.2 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate, for those portions of the Construction Work for which submittals are required, how CM/Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents.

3.12.3 CM/Contractor shall review, approve, and submit to University's Representative Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents with reasonable promptness and in such sequence as to cause no delay in the Construction Work or in the activities of University or of Separate Contractors. Submittals made by CM/Contractor which are not required by the Contract Documents may be returned without action by University's Representative.

3.12.4 CM/Contractor shall perform no portion of the Construction Work requiring submittal and review of Shop Drawings, Product Data, Samples, or similar submittals until the respective submittal has been reviewed by University's Representative and no exceptions have been taken by University's Representative. Such Construction Work shall be in accordance with approved submittals and the Contract Documents.

3.12.5 By approving and submitting Shop Drawings, Product Data, Samples, and similar submittals, CM/Contractor represents that it has determined or verified materials and field measurements and conditions related thereto, and that it has checked and coordinated the information contained within such submittals with the requirements of the Contract Documents and Shop Drawings for related Construction Work.

3.12.6 If CM/Contractor discovers any conflicts, omissions, or errors in Shop Drawings or other submittals, CM/Contractor shall notify University's Representative and receive instruction before proceeding with the affected Work.

3.12.7 CM/Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by University's Representative's review of Shop Drawings, Product Data, Samples, or similar submittals, unless CM/Contractor has specifically informed University's Representative in writing of such deviation at the time of submittal and University's Representative has given written approval of the specific deviation. CM/Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by University's Representative's review, acceptance, comment, or approval thereof.

3.12.8 CM/Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by University's Representative on previous submittals.

3.12.9 Environmental Product Declarations:

- .1 CM/Contractor shall comply with California Public Contract Code Section 3500 et seq., the Buy Clean California Act ("BCCA").
- .2 Compliance with the BCCA and this Article applies to all Eligible Materials for the Project.

See Supplementary Conditions

### **3.13 USE OF SITE AND CLEAN UP**

3.13.1 CM/Contractor shall confine operations at the Project Site to areas permitted by law, ordinances, permits, and the Contract Documents. CM/Contractor shall not unreasonably encumber the Project Site with materials or equipment.

3.13.2 CM/Contractor shall, during performance of the Construction Work, keep the Project Site and surrounding area free from the accumulation of excess dirt, waste materials, and rubbish caused by CM/Contractor. CM/Contractor shall remove all excess dirt, waste material, and rubbish caused by the CM/Contractor; tools; equipment; machinery; and surplus materials from the Project Site and surrounding area at the completion of the Construction Work.

3.13.3 Personnel of CM/Contractor and Subcontractors shall not occupy, live upon, or otherwise make use of the Project Site during any time that Work is not being performed at the Project Site, except as otherwise provided in the Contract Documents.

### **3.14 CUTTING, FITTING, AND PATCHING**

3.14.1 CM/Contractor shall do all cutting, fitting, or patching of the Construction Work required to make all parts of the Construction Work come together properly and to allow the Construction Work to receive or be received by work of Separate Contractors shown upon, or reasonably implied by, the Contract Documents.

3.14.2 CM/Contractor shall not endanger the Construction Work, the Project, or adjacent property by cutting, digging, or otherwise. CM/Contractor shall not cut or alter the work of any Separate Contractor without the prior consent of University's Representative.

### **3.15 ACCESS TO CONSTRUCTION WORK**

3.15.1 University, University's Representative, their consultants, and other persons authorized by University will at all times have access to the Construction Work wherever it is in preparation or progress. CM/Contractor shall provide safe and proper facilities for such access and for inspection.

### **3.16 ROYALTIES AND PATENTS**

3.16.1 CM/Contractor shall pay all royalties and license fees required for the performance of the Work. CM/Contractor shall defend suits or claims resulting from CM/Contractor's or any Subcontractor's infringement of patent rights and shall indemnify University and University's Representative from losses on account thereof.

### **3.17 DIFFERING SITE CONDITIONS**

3.17.1 If CM/Contractor encounters any of the following conditions at the site, CM/Contractor shall immediately notify the University's Representative in writing of the specific differing conditions before they are disturbed and before any affected Work is performed, and permit investigation of the conditions:

- .1 Subsurface or latent physical conditions at the site (including Hazardous Materials) which differ materially from those indicated in this Contract, or if not indicated in this Contract, in the Information Available to Bidders; or
- .2 Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

3.17.2 CM/Contractor shall be entitled to an adjustment to the Contract Sum and/or Contract Time as the result of extra costs and/or delays resulting from a materially differing site condition, if and only if CM/Contractor fulfills the following conditions:

- .1 CM/Contractor fully complies with Article 3.17.1; and
- .2 CM/Contractor fully complies with Article 4 of the General Conditions (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).

3.17.3 Adjustments to the Contract Sum and/or Contract Time shall be subject to the procedures and limitations set forth in Articles 7 and 8 of the General Conditions.

### **3.18 CONCEALED, UNFORESEEN, OR UNKNOWN CONDITIONS OR EVENTS**

3.18.1 Except and only to the extent provided otherwise in Articles 3.17, 7 and 8 of the General Conditions, by signing the Agreement, CM/Contractor agrees:

- .1 To bear the risk of concealed, unforeseen or unknown conditions and events, if any, which may be encountered in performing the Contract; and
- .2 That CM/Contractor's bid for the Contract was made with full knowledge of this risk.

In agreeing to bear the risk of concealed, unforeseen or unknown conditions and events, CM/Contractor understands that, except and only to the extent provided otherwise in Articles 3.17, 7 and 8 of the General Conditions, concealed, unforeseen or unknown conditions

or events shall not excuse CM/Contractor from its obligation to achieve Final Completion of the Work within the Contract Time, and shall not entitle the CM/Contractor to an adjustment of the Contract Sum.

3.18.2 If CM/Contractor encounters concealed, unforeseen or unknown conditions or events that may require a change to the design shown in the Contract Documents, CM/Contractor shall immediately notify University's Representative in writing such that University's Representative can determine if a change to the design is required. CM/Contractor shall be liable to University for any extra costs incurred as the result of CM/Contractor's failure to immediately give such notice.

3.18.3 If, as the result of concealed, unforeseen or unknown conditions or events, the University issues a Change Order or Field Order that changes the design from the design depicted in the Contract Documents, CM/Contractor shall be entitled, subject to compliance with all the provisions of the Contract, including those set forth in Articles 4, 7 and 8 of the General Conditions, to an adjustment of the Contract Sum and/or Contract Time, for the cost and delay resulting from implementing the changes to the design. Except as provided in this Article 3.18.3, or as may be expressly provided otherwise in the Contract, there shall be no adjustment of the Contract Sum and/or Contract Time as a result of concealed, unforeseen or unknown conditions or events.

3.18.4 CM/Contractor shall, as a condition precedent to any adjustment in Contract Sum or Contract Time under Article 3.18.3 above, fully comply with Article 4 of the General Conditions (including the timely filing of a Change Order Request and all other requirements for Change Orders Requests and Claims).

### 3.19 HAZARDOUS MATERIALS

3.19.1 The University shall not be responsible for any Hazardous Material brought to the site by the CM/Contractor.

3.19.2 If the CM/Contractor: (i) introduces and/or discharges a Hazardous Material onto the site in a manner not specified by the Contract Documents; and/or (ii) disturbs a Hazardous Material identified in the Contract Documents, the CM/Contractor shall hire a qualified remediation contractor at CM/Contractor's sole cost to eliminate the condition as soon as possible. Under no circumstance shall the CM/Contractor perform Work for which it is not qualified. University, in its sole discretion, may require the CM/Contractor to retain at CM/Contractor's cost an independent testing laboratory.

3.19.3 If the CM/Contractor encounters a Hazardous Material which may cause foreseeable injury or damage, CM/Contractor shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such material or substance (except in an emergency situation); and (iii) notify University (and promptly thereafter confirm such notice in writing)

3.19.4 Subject to CM/Contractor's compliance with Article 3.19.3, the University shall verify the presence or absence of the Hazardous Material reported by the CM/Contractor, except as qualified under Section 3.19.1 and 3.19.3, and, in the event such material or substance is found to be present, verify that the levels of the hazardous material are below OSHA Permissible Exposure Levels and below levels which would classify the material as a state of California or federal hazardous waste. When the material falls below such levels, Work in the affected area shall resume upon direction by the University. The Contract Time and Sum shall be extended appropriately as provided in Articles 7 and 8.

3.19.5 The University shall indemnify and hold harmless the CM/Contractor from and against claims, damages, losses and expenses, arising from a Hazardous Material on the Project Site, if such Hazardous Material: (i) was not shown on the Contract Documents or Information Available to Bidders; (ii) was not brought to the site by CM/Contractor; and (iii) exceeded OSHA Permissible Exposure Levels or levels which would classify the material as a state of California or federal hazardous waste. The indemnity obligation in this Article shall not apply to:

.1 Claims, damages, losses or expenses arising from the breach of contract, negligence or willful misconduct of CM/Contractor, its suppliers, its Subcontractors of all tiers and/or any persons or entities working under CM/Contractor; and

.2 Claims, damages, losses or expenses arising from a Hazardous Material subject to Article 3.19.2.

3.19.6 In addition to the requirements in Article 3.22, CM/Contractor shall indemnify and hold harmless the University from and against claims, damages, losses and expenses, arising from a Hazardous Material on the Project site, if such Hazardous Material exceeded OSHA Permissible Exposure Levels or levels which would classify the material as a state of California or federal hazardous waste, and was either i) shown on the Contract Documents or Information Available to Bidders; or (ii) brought to the site by CM/Contractor. Nothing in this paragraph shall obligate the CM/Contractor to indemnify University in the event of the sole negligence of the University, its officers, agents, or employees.

### 3.20 INFORMATION AVAILABLE TO BIDDERS

3.20.1 Any information provided pursuant to Information Available to Bidders is subject to the following provisions:

.1 The information is made available for the convenience of Bidders and is not a part of the Contract.

.2 The CM/Contractor may rely on written descriptions of physical conditions included in the information to the extent such reliance is reasonable.

.3 Other components of the information, including but not limited to recommendations, may not be relied upon by CM/Contractor. University shall not be responsible for any interpretation of or conclusion drawn from the other components of the information by the CM/Contractor.

**3.21 LIABILITY FOR AND REPAIR OF DAMAGED CONSTRUCTION WORK**

3.21.1 CM/Contractor shall be liable for any and all damages and losses to the Project (whether by fire, theft, vandalism, earthquake or otherwise) prior to University's acceptance of the Project as fully completed except that CM/Contractor shall not be liable for earthquake in excess of magnitude 3.5 on the Richter Scale, tidal wave, or flood, provided that the damages or losses were not caused in whole or in part by the negligent acts or omissions of CM/Contractor, its officers, agents or employees (including all Subcontractors and suppliers of all tiers). As used herein, "flood" shall have the same meaning as in the builder's risk property insurance.

3.21.2 CM/Contractor shall promptly repair and replace any Construction Work or materials damaged or destroyed for which the CM/Contractor is liable under Paragraph 3.21.1.

**3.22 INDEMNIFICATION**

3.22.1 CM/Contractor shall indemnify, defend and hold harmless University, University's consultants, University's Representative, University's Representative's consultants, and their respective directors, officers, agents, and employees from and against losses (including without limitation the cost of repairing defective work and remedying the consequences of defective work) arising out of, resulting from, or relating to the following:

- .1 The failure of CM/Contractor to perform its obligations under the Contract.
- .2 The inaccuracy of any representation or warranty by CM/Contractor given in accordance with or contained in the Contract Documents.
- .3 Any claim of damage or loss by any Subcontractor against University arising out of any alleged act or omission of CM/Contractor or any other Subcontractor, or anyone directly or indirectly employed by CM/Contractor or any Subcontractor.
- .4 Any claim of damage or loss resulting from Hazardous Materials introduced, discharged, or disturbed by CM/Contractor as required per Article 3.19.6.

3.22.2 The University shall not be liable or responsible for any accidents, loss, injury (including death) or damages happening or accruing during the term of the performance of the Work herein referred to or in connection therewith, to persons and/or property, and CM/Contractor shall fully indemnify, defend and hold harmless University and protect University from and against the same as provided in paragraph 3.22.1 above. In addition to the liability imposed by law upon the CM/Contractor for damage or injury (including death) to persons or property by reason of the negligence of the CM/Contractor, its officers, agents, employees or Subcontractors, which liability is not impaired or otherwise affected hereby, the CM/Contractor shall defend, indemnify, hold harmless, release and forever discharge the University, its officers, employees, and agents from and against and waive any and all responsibility of same for every expense, liability, or payment by reason of any damage or injury (including death) to persons or property suffered or claimed to have been suffered through any negligent act, omission, or willful misconduct of the CM/Contractor, its officers, agents, employees, or any of its Subcontractors, or anyone directly or indirectly employed by either of them or from the condition of the premises or any part of the premises while in control of the CM/Contractor, its officers, agents, employees, or any of its Subcontractors or anyone directly or indirectly employed by either of them, arising out of the performance of the Work called for by this Contract. CM/Contractor agrees that this indemnity and hold harmless shall apply even in the event of negligence of University, its officers, agents, or employees, regardless of whether such negligence is contributory to any claim, demand, loss, damage, injury, expense, and/or liability; but such indemnity and hold harmless shall not apply (i) in the event of the sole negligence of University, its officers, agents, or employees; or (ii) to the extent that the University shall indemnify and hold harmless the CM/Contractor for Hazardous Materials pursuant to Article 3.19.5.

3.22.3 In claims against any person or entity indemnified under this Article 3.22 that are made by an employee of CM/Contractor or any Subcontractor, a person indirectly employed by CM/Contractor or any Subcontractor, or anyone for whose acts CM/Contractor or any Subcontractor may be liable, the indemnification obligation under this Article 3.22 shall not be limited by any limitation on amount or type of damages, compensation, or benefits payable by or for CM/Contractor or any Subcontractor under Workers' Compensation acts, disability benefit acts, or other employee benefit acts.

3.22.4 The indemnification obligations under this Article 3.22 shall not be limited by any assertion or finding that the person or entity indemnified is liable by reason of a non-delegable duty.

3.22.5 CM/Contractor shall indemnify University from and against losses resulting from any claim of damage made by any Separate Contractor against University arising out of any alleged acts or omissions of CM/Contractor, any Subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

3.22.6 CM/Contractor shall indemnify Separate Contractors from and against losses arising out of the negligent acts, omissions, or willful misconduct of CM/Contractor, any Subcontractor, anyone directly or indirectly employed by either of them, or anyone for whose acts either of them may be liable.

**3.23 BIDDING**

3.23.1 CM/Contractor is responsible as part of Pre-Construction Services, to competitively bid all work not performed by the CM/Contractor in accordance with the applicable provisions of the California Public Contract Code and University Policy. As such, CM/Contractor shall:

- .1 Provide public notice of the availability of work to be subcontracted in accordance with Section 10500 et seq. of the Public Contract Code.
- .2 The contents of the notice shall state the time and place for receiving and opening of sealed bids and general description of the work.
- .3 As authorized by the University, establish reasonable prequalification criteria and standards which are consistent with the competitive bidding laws.
- .4 Provide that the subcontracted work be awarded to the lowest responsive and responsible bidder, subject to University's right, in its sole discretion, to reject all bids and require CM/Contractor to rebid any subcontract Bid Package.
- .5 Receive, open, and analyze for compliance with competitive bidding procedures, the bids received, other than for self-performed work, for Bid Package Contracts.
- .6 Provide University with a Bid Package Certification Form, as contained in the Exhibits, certifying to the University that the CM/Contractor has followed the procedures of this section and that the CM/Contractor has determined that the lowest bidder is both responsible and responsive. Additionally, upon submittal of the Bid Package Certification Form for the final Bid Package as shown in the Contract Schedule, CM/Contractor shall certify to the University on the Bid Package Certification that all Construction Work, previously approved by the University for insertion into Bid Packages, has been incorporated into the Contract, whether by the final Bid Package or preceding Bid Packages. CM/Contractor shall bear the cost any such Construction Work not incorporated in the final Bid Package or preceding Bid Packages.
- .7 Incorporate requirements related to bid protest procedures, pursuant to University Policy, and comply with the procedures in Bid Protest Procedure Exhibit.

3.23.2 University will conduct bidding for any Bid Package when the CM/Contractor, a company CM/Contractor has a financial interest in, or a parent company of CM/Contractor, intends to submit a bid to self-perform the work of the Bid Package.

3.23.3 CM/Contractor, a company CM/Contractor has a financial interest in, or a parent company of CM/Contractor will be permitted to submit a bid to self-perform the work of a Bid Package if:

- .1 The categories of work to be bid are listed in the Supplementary Conditions, and
- .2 CM/Contractor has notified University's Representative in writing within the time period specified in the Supplementary Conditions of such intent.

**ARTICLE 4**  
**ADMINISTRATION OF THE CONTRACT**

**4.1 ADMINISTRATION OF THE CONTRACT BY UNIVERSITY'S REPRESENTATIVE**

4.1.1 University's Representative will provide administration of the Contract as provided in the Contract Documents and will be the representative of University. University's Representative will have authority to act on behalf of University only to the extent provided in the Contract Documents.

4.1.2 University's Representative will have the right to visit the Project Site at such intervals as deemed appropriate by the University's Representative. However, no actions taken during such Project Site visit by University's Representative shall relieve CM/Contractor of its obligations as described in the Contract Documents.

4.1.3 University's Representative will not have control over, will not be in charge of, and will not be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Construction Work, since these are solely CM/Contractor's responsibility.

4.1.4 Except as otherwise provided in the Contract Documents or when direct communications have been specifically authorized, University and CM/Contractor shall communicate through University's Representative. Except when direct communication has been specifically authorized in writing by University's Representative, communications by CM/Contractor with University's consultants and University's Representative's consultants shall be through University's Representative. Communications by University and University's Representative with Subcontractors will be through CM/Contractor. Communications by CM/Contractor and Subcontractors with Separate Contractors shall be through University's Representative. CM/Contractor shall not rely on oral or other non-written communications.

4.1.5 Based on University's Representative's Project Site visits and evaluations of CM/Contractor's Applications for Payment, University's Representative will recommend amounts, if any, due CM/Contractor and will issue Certificates for Payment in such amounts.

4.1.6 University's Representative will have the authority to reject the Work, or any portion thereof, which does not conform to the Contract Documents. University's Representative will have the authority to stop the Work or any portion thereof. Whenever University's Representative considers it necessary or advisable for implementation of the intent of the Contract Documents, University's Representative will have the authority to require additional inspection or testing of the Work in accordance with the Contract Documents, whether or not such Work is fabricated, installed, or completed. However, no authority of University's Representative conferred by the Contract Documents nor any decision made in good faith either to exercise or not exercise such authority, will give rise to a duty or responsibility of University or University's Representative to CM/Contractor, or any person or entity claiming under or through CM/Contractor.

4.1.7 University's Representative will have the authority to conduct inspections as provided in the Contract Documents, to take Beneficial Occupancy and to determine the dates of Substantial Completion and Final Completion; will receive for review and approval any records, written warranties, and related documents required by the Contract Documents and assembled by CM/Contractor; and will issue a final Certificate for Payment upon CM/Contractor's compliance with the requirements of the Contract Documents.

4.1.8 University's Representative will be, in the first instance, the interpreter of the requirements of the Contract Documents and the judge of performance thereunder by CM/Contractor. Should CM/Contractor discover any conflicts, omissions, or errors in the Contract Documents; have any questions about the interpretation or clarification of the Contract Documents; question whether Work is within the scope of the Contract Documents; or question that Work required is not sufficiently detailed or explained, then, before proceeding with the Work affected, CM/Contractor shall notify University's Representative in writing and request interpretation, clarification, or furnishing of additional detailed instructions. University's Representative's response to questions and requests for interpretations, clarifications, instructions, or decisions will be made with reasonable promptness. Should CM/Contractor proceed with the Work affected before receipt of a response from University's Representative, any portion of the Work which is not done in accordance with University's Representative's interpretations, clarifications, instructions, or decisions shall be removed or replaced and CM/Contractor shall be responsible for all resultant losses.

## 4.2 CM/CONTRACTOR CHANGE ORDER REQUESTS

4.2.1 CM/Contractor may request changes to the Contract Sum and/or Contract Time for Extra Work, materially differing site conditions, or Delays to Final Completion of the Construction Work.

4.2.2 Conditions precedent to obtaining an adjustment of the Contract Sum and/or Contract Time, payment of money, or other relief with respect to the Contract Documents, for any other reason, are:

- .1 Timely submission of a Change Order Request that meets the requirements of Articles 4.2.3.1 and 4.2.3.2; and
- .2 If requested, timely submission of additional information requested by the University's Representative pursuant to Article 4.2.3.3.

4.2.3 Change Order Request.

4.2.3.1 A Change Order Request will be deemed timely submitted if, and only if, it is submitted within 7 days of the date the CM/Contractor discovers, or reasonably should discover the circumstances giving rise to the Change Order Request, unless additional time is allowed in writing by University's Representative for submission of the Change Order Request, provided that if:

- .1 The Change Order Request includes compensation sought by a Subcontractor; AND
- .2 The CM/Contractor requests in writing to the University's Representative, within the 7-day time period, additional time to permit CM/Contractor to conduct an appropriate review of the Subcontractor Change Order Request, the time period for submission of the actual Change Order Request shall be extended by the number of days specified in writing by the University's Representative.

4.2.3.2 Change Order Request must state that it is a Change Order Request, state and justify the reason for the request, and specify the amount of any requested adjustment of the Contract Sum, Contract Time, and/or other monetary relief. If the CM/Contractor requests an adjustment to the Contract Sum or other monetary relief, the CM/Contractor shall submit the following with the Change Order Request:

- .1 A completed Cost Proposal in the form contained in the Exhibits meeting the requirements of Article 7 of the General Conditions; OR
- .2 A partial Cost Proposal and a declaration of what required information is not then known to CM/Contractor. If CM/Contractor failed to submit a completed Cost Proposal with the Change Order Request, CM/Contractor shall submit a completed Cost Proposal meeting the requirements of Article 7 of the General Conditions within 7 days of the date the CM/Contractor submitted the Change Order Request unless additional time is allowed by the University's Representative.

4.2.3.3 Upon request of University's Representative, CM/Contractor shall submit such additional information as may be requested by University's Representative for the purpose of evaluating the Change Order Request. Such additional information may include:

- .1 If CM/Contractor seeks an adjustment of the Contract Sum or other monetary relief, actual cost records for any changed or extra costs (including without limitation, payroll records, material and rental invoices and the like), shall be submitted by the deadline established by the University's Representative, who may require such actual cost

records to be submitted and reviewed, on a daily basis, by the University's Representative and/or representatives of the University's Representative.

- .2 If CM/Contractor seeks an adjustment of the Contract Time, written documentation demonstrating CM/Contractor's entitlement to a time extension under Article 8.4 of the General Conditions, which shall be submitted within 15 days of the date requested. If requested, CM/Contractor may submit a fragnet in support of its request for a time extension. The University may, but is not obligated to, grant a time extension on the basis of a fragnet alone which, by its nature, is not a complete schedule analysis. If deemed appropriate by University's Representative, CM/Contractor shall submit a more detailed schedule analysis in support of its request for a time extension.
- .3 If CM/Contractor seeks an adjustment of the Contract Sum or other monetary relief for delay, written documentation demonstrating CM/Contractor's entitlement to such an adjustment under Article 7.3.9 of the General Conditions, which shall be submitted within 15 days of the date requested.
- .4 Any other information requested by the University's Representative for the purpose of evaluating the Change Order Request, which shall be submitted by the deadline established by the University's Representative.

4.2.4 University's Representative will make a decision on a Change Order Request, within a reasonable time, after receipt of a Change Order Request. In the event the Change Order Request is submitted pursuant to Article 8.4.1 the University's Representative shall promptly review and accept or reject it within thirty (30) days. A final decision is any decision on a Change Order Request which states that it is final. If University's Representative issues a final decision denying a Change Order Request in whole or in part, CM/Contractor may contest the decision by filing a timely Claim under the procedures specified in Article 4.4 below.

4.2.5 CM/Contractor may file a written demand for a final decision by University's Representative on all or part of any Change Order Request as to which the University's Representative has not previously issued a final decision pursuant to Article 4.2.4 above; such written demand may not be made earlier than the 30th day after submission of the Change Order Request. Within 30 days of receipt of the demand, University's Representative will issue a final decision on the Change Order Request. The University's Representative's failure to issue a decision within the 30-day period shall be treated as the issuance, on the last day of the 30-day period, of a final decision to deny the Change Order Request in its entirety.

### 4.3 CLAIMS

4.3.1 The term "Claim" means a written demand or assertion by CM/Contractor seeking an adjustment or interpretation of the terms of the Contract Documents, payment of money, extension of time, or other relief with respect to the Contract Documents, including a determination of disputes or matters in question between University and CM/Contractor arising out of or related to the Contract Documents or the performance of the Construction Work. However, the term "Claim" shall not include, and the Claims procedures provided under this Article 4, including but not limited to arbitration, shall not apply to the following:

- .1 Claims respecting penalties for forfeitures prescribed by statute or regulation which a government agency is specifically authorized to administer, settle, or determine.
- .2 Claims respecting personal injury, death, reimbursement, or other compensation arising out of, or resulting from, liability for personal injury or death.
- .3 Claims by University, except as set forth Articles 4.5, 4.6, and 4.7. of the General Conditions.
- .4 Claims respecting stop payment notices.

4.3.2 A Claim arises upon the issuance of a written final decision denying in whole or in part CM/Contractor's Change Order Request pursuant to Articles 4.2.4 and 4.2.5 above.

4.3.3 A Claim must include the following:

- .1 A statement that it is a Claim and a request for a decision pursuant to Article 4.5 of the General Conditions.
- .2 A detailed factual narrative of events fully describing the nature and circumstances giving rise to the Claim, including but not limited to, necessary dates, locations, and items of work affected.
- .3 A certification, executed by CM/Contractor, that the claim is filed in good faith. The certification must be made on the Claim Certification form, included in the Exhibits to the Contract. The language of the Claim Certification form may not be modified.
- .4 A certification, executed by each Subcontractor claiming not less than 5% of the total monetary amount sought by the claim, that the subcontractor's portion of the claim is filed in good faith. The certification must be made on the Claim Certification form, included in the Exhibits to the Contract. The language of the Claim Certification form may not be modified.
- .5 A statement demonstrating that a Change Order Request was timely submitted as required by Article 4.2.3 above.



- .6 If a Cost Proposal or declaration was required by Article 4.2.3 above, a statement demonstrating that the Cost Proposal or the declaration was timely submitted as required by Article 4.2.3.
- .7 A detailed justification for any remedy or relief sought by the Claim, including to the extent applicable, the following:
  - .1 If the Claim involves Extra Work, a detailed cost breakdown of the amounts claimed, including the items specified in Article 7.3.2 of the General Conditions. An estimate of the costs must be provided even if the costs claimed have not been incurred when the Claim is submitted. To the extent costs have been incurred when the Claim is submitted, the Claim must include actual cost records (including without limitation, payroll records, material and rental invoices and the like) demonstrating that costs claimed have actually been incurred. To the extent costs have not yet been incurred at the time the Claim is submitted, actual cost records must be submitted on a current basis not less than once a month during any periods costs are incurred. A cost record will be considered current if submitted within 30 days of the date the cost reflected in the record is incurred. At the request of the University's Representative, claimed extra costs may be subject to further verification procedures (such as having an inspector verify the performance of alleged Extra Work on a daily basis). The cost breakdown must include an itemization of costs for i) labor including workers' names, classifications, regular hours and overtime hours worked, dates worked, and other pertinent information; ii) materials stored or incorporated in the work including invoices, purchase orders, location of materials either stored or incorporated into the work, dates materials were transported to the project or incorporated into the work, and other pertinent information; and iii) itemization of machinery and equipment including make, model, hours of use, dates of use and equipment rental rates of any rented equipment.
  - .2 If the Claim involves an extension of the Contract Time, written documentation demonstrating the CM/Contractor's entitlement to a time extension under Article 8.4 of the General Conditions, including the specific dates for which a time extension is sought and the specific reasons for entitlement of a time extension.
  - .3 If the Claim involves an adjustment of the Contract Sum for delay, written documentation demonstrating the CM/Contractor's entitlement to such an adjustment under Article 7.3.9 of the General Conditions, including but not limited to, a detailed time impact analysis of the Contract Schedule. The Contract Schedule must demonstrate CM/Contractor's entitlement to such an adjustment under Article 7.3.9.

#### **4.4 ASSERTION OF CLAIMS**

4.4.1 Claims by CM/Contractor shall be first submitted to University's Representative for decision.

4.4.2 Notwithstanding the making of any Claim or the existence of any dispute regarding any Claim, unless otherwise directed by University's Representative, CM/Contractor shall not cause any delay, cessation, or termination in or of CM/Contractor's performance of the Work, but shall diligently proceed with performance of the Work in accordance with the Contract Documents.

4.4.3 CM/Contractor shall submit a Claim in writing, together with all supporting data specified in Article 4.3.3 above, to University's Representative as soon as possible but not later than 30 days after the date the Claim arises under Article 4.3.2, provided that after written notification to the University's Representative within such time period, the time period for submission of the Claim shall be extended by the number of days specified in writing by the University's Representative where the Claim includes compensation sought by a Subcontractor and the CM/Contractor requests an extension of time to permit it to discharge its responsibilities to conduct an appropriate review of the Subcontractor claim.

4.4.4 Strict compliance with the requirements of Articles 4.2, 4.3, and 4.4 of the General Conditions are conditions precedent to CM/Contractor's right to an informal conference to meet and confer to resolve a claim, mediate a claim, or arbitrate or litigate a Claim. CM/Contractor specifically agrees to assert no Claims via an informal conference, mediation, arbitration or litigation unless there has been strict compliance with Articles 4.2, 4.3, and 4.4. The failure of CM/Contractor to strictly comply with the requirements of Articles 4.2, 4.3 and 4.4 constitutes a failure by CM/Contractor to exhaust its administrative remedies with the University, thereby denying any court or arbitration panel of jurisdiction to adjudicate the Claim.

#### **4.5 DECISION OF UNIVERSITY'S REPRESENTATIVE ON CLAIMS**

4.5.1 University's Representative will timely review Claims submitted by CM/Contractor. If University's Representative determines that additional supporting data are necessary to fully evaluate a Claim, University's Representative will request such additional supporting data in writing. Such data shall be furnished no later than 10 days after the date of such request. University's Representative will render a decision promptly and in any case within 30 days after the later of the receipt of the Claim or the deadline for furnishing such additional supporting data; provided that, if the amount of the Claim is in excess of \$50,000, the aforesaid 30-day period shall be 45 days. Failure of University's Representative to render a decision by the applicable deadline will be deemed a decision denying the Claim on the date of the deadline, unless, upon receipt of a Claim, CM/Contractor and University mutually agree to extend the time periods provided herein, or unless otherwise extended by law. The decision of University's Representative will be final and binding unless appealed in accordance with Articles 4.5.2, 4.6, and 4.7 of the General Conditions. The University's Representative's decision on a Claim or dispute will include a written statement both identifying all disputed and undisputed portions of the Claim and substantially including the following:

"This is a decision under Article 4.5 of the General Conditions of your contract. If you are dissatisfied with the decision, and if you complied with the procedural requirements for asserting claims specified in Article 4 of the General Conditions of your contract, you may have the right to demand in writing an informal conference to meet and confer for settlement of any remaining issues in dispute, following which, if still dissatisfied, you may demand in writing a further resolution via nonbinding mediation, after which you have the right to arbitrate or litigate this decision. If you fail to take appropriate action within 30 days of the date of this decision, the decision shall become final and binding and not subject to further appeal."

4.5.2 If either CM/Contractor or University disputes University's Representative's decision on a Claim, then, within 30 days after the decision of University's Representative on the Claim, or, if no decision has been issued, within 30 days from the date of the applicable deadline in Article 4.5.1 for University Representative to render a decision, such party (the "Disputing Party") must provide written notice demanding an informal conference to meet and confer. University shall schedule the conference within 30 days upon receipt of the notice demanding an informal conference. The parties will attempt in good faith to resolve any controversy or Claim arising out of or relating to this Contract by negotiation at the conference.

#### 4.6 MEDIATION

4.6.1 Within 10 business days following the informal conference to meet and confer stated in Article 4.5.2, if the Claim or any portion of the Claim remains in dispute, the University shall provide a written statement identifying the disputed and undisputed portions of the Claim. Within 30 days of receipt of the statement, if either CM/Contractor or University disputes any portion of the Claim, then the Disputing Party must provide written notice to the non-disputing party demanding non-binding mediation. The CM/Contractor and the University shall share the associated costs equally and shall mutually agree to a mediator within 10 business days. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the Claim, with each party bearing the fees and costs of its respective mediator. Mediation shall include, but not be limited to, neutral evaluation, a dispute review board, or other negotiation or evaluation through an independent third party or board. The CM/Contractor and the University may mutually agree to waive any individual mediation in writing and proceed to arbitration or litigation pursuant to this Contract.

#### 4.7 LITIGATION AND ARBITRATION

4.7.1 Either party may provide a written notice of its election to arbitrate or provide written notice of its election to litigate the Claim within 30 days after the mediation pursuant to Article 4.6.1, or, if the parties mutually agreed in writing to waive mediation, within 30 days after the agreement is signed by both parties.

4.7.2 If a notice of election to arbitrate or litigate is not given by either party within 30 days pursuant to Article 4.7.1, University's Representative's decision on the Claim will be final and binding and not subject to appeal or challenge.

4.7.3 If the Disputing Party gives timely notice of its election to arbitrate the University's Representative's decision on a Claim, Disputing Party shall have the right, within 120 days after a Notice of Completion, or a Notice of Cessation, as applicable, is filed for the Contract, to make a demand for arbitration in accordance with Article 4.7. Failure to perfect a Claim for which a timely election to arbitrate has been made by the timely filing of a demand for arbitration and timely payment of all applicable and required fees to American Arbitration Association ("AAA") shall result in the University's Representative's decision on said Claim becoming final and binding and not subject to appeal or challenge. If the Disputing Party makes a timely demand for arbitration, and the amount of the Claim in question, when combined with all other Claims, if any, which are the subject of previously filed demands for arbitration that have not been resolved by settlement or arbitration award, is \$100,000 or more, then the other party may elect to litigate all such Claims by filing a written notice with the AAA within 30 days after its receipt of notice from the AAA of the Disputing Party's demand for arbitration of the Claim that raises the total amount of Claims subject to arbitration to \$100,000 or more. If the other party fails to give notice of its election to litigate within such 30-day period, it shall be deemed to have consented to arbitration and waived the right to litigate. If after commencement of arbitration the amount of unresolved Claims in arbitration are allowed to be increased to \$100,000 or more, through an AAA-allowed amendment or otherwise, either party may elect to litigate within 30 days following the date that the electing party first receives written notification from the AAA that total Claims in arbitration equal or exceed \$100,000. If neither party gives notice of its election to litigate within such 30-day period as applicable, then both parties shall be deemed to have consented to arbitration and waived the right to litigate.

4.7.4 A demand for arbitration pursuant to Article 4.7.3 of the General Conditions shall include a copy of the Claim presented to University's Representative pursuant to Article 4.4 of the General Conditions, a copy of the decision of University's Representative pursuant to Article 4.5, if any, a copy of the University's written statement identifying the portion of the Claim that remained in dispute following the informal conference pursuant to Article 4.6.1, and a summary of the remaining portions of the Claim in dispute. The demand shall state the amount in controversy, if any, and state the remedy sought. The demand shall identify the University's Responsible Administrator as the representative of the responding party and the Office of the General Counsel as counsel for the responding party. The demand shall be filed with the AAA and shall not be deemed to have been made until all applicable fees have been paid to the AAA by the demanding party. Copies of the demand and attachments shall be sent to University's Responsible Administrator as the representative of the responding party and the University's Office of General Counsel as attorney for the responding party, at the addresses set forth in the Project Directory, at the time the demand for arbitration is initiated with the AAA.

4.7.5 Except as modified by this Article 4.7, arbitration shall be conducted in accordance with the Construction Industry Arbitration Rules of the AAA then in effect. The following additional modifications shall be made to the aforesaid AAA rules:

- .1 Civil discovery shall be permitted for the production of documents. Other discovery may be permitted at the discretion of the arbitrator. All disputes regarding discovery shall be decided by the arbitrator.

- .2 University's Representative and/or University's consultants, shall if required by agreement with University, upon demand by University join in and be bound by the Arbitration. University's Representative and University's consultants will have the same rights in any arbitration proceeding as are afforded by the AAA rules to CM/Contractor and University.
- .3 CM/Contractor's sureties shall be bound by any arbitration award and may join in any arbitration proceeding.
- .4 Except as provided in Articles 4.7.5.2 and 4.7.5.3 above, no Subcontractor or other person shall have a right or obligation to join in or be a party to any arbitration proceeding provided for in this Article 4 either directly, by joinder, by consolidation or actions, by counterclaim or cross-claim, or otherwise without the express written consent of University, CM/Contractor, and the joining party.
- .5 If more than one demand for arbitration is made by a party with respect to Claims referred to University's Representative, all such Claims shall be consolidated into a single arbitration unless the parties otherwise agree in writing.
- .6 If total Claims are less than \$50,000, the AAA expedited procedures as modified by this Article 4 shall apply. If total Claims are between \$50,000 and \$100,000, they shall be heard by a single arbitrator who shall be an attorney. If total Claims are in excess of \$100,000 and are submitted to arbitration, either by agreement or by failure to elect litigation, the controversy shall be heard by a panel of three arbitrators, one of which shall be an attorney.
- .7 No arbitrator shall be appointed and no discovery may be commenced prior to Final Completion unless University and CM/Contractor otherwise agree.
- .8 The exclusive forum for determining arbitrability shall be the Superior Court of the State of California. The AAA shall not submit to any arbitrator any matter concerning the arbitrability of the dispute if the arbitrability is contested.
- .9 If the expedited procedures of the AAA are applicable, the AAA shall submit simultaneously to each party an identical list of 7 proposed arbitrators drawn from the National Panel of Commercial Arbitrators, and each party may strike 3 names from the list on a peremptory basis and return the list to the AAA within 10 days from the date of receipt.

4.7.6 Unless University and CM/Contractor otherwise agree in writing, the arbitration decision shall be binding upon the parties, made under and in accordance with the laws of the State of California, supported by substantial evidence, and in writing. If the total of all Claims or cross Claims submitted to arbitration is in excess of \$50,000, the award shall contain the basis for the decision, findings of fact, and conclusions of law. Any arbitration award shall be subject to confirmation, vacation, or correction under the procedures and on the grounds specified in the California Code of Civil Procedure including without limitation Section 1296. The expenses and fees of the arbitrators and the administrative fees of the AAA shall be divided among the parties equally. Each party shall pay its own counsel fees, witness fees, and other expenses incurred for its own benefit.

4.7.7 University may, but is not required, to assert as a counterclaim any matter arising out of the claims asserted by CM/Contractor in the arbitration. University's failure to assert any such counterclaim in an arbitration shall be without prejudice to the University's right to assert the counterclaim in litigation or other proceeding.

4.7.8 Any litigation shall be filed in the Superior Court of the State of California for the County in which the contract was to be performed.

#### **4.8 WAIVER**

4.8.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 4 in connection with any Claim shall not constitute a waiver of, and shall not preclude the University or University's Representative from enforcing such requirements in connection with any other Claims.

4.8.2 The CM/Contractor agrees and understands that no oral approval, either express or implied, of any Claim shall be binding upon University unless and until such approval is ratified by execution of a written Change Order.

### **ARTICLE 5** **SUBCONTRACTORS**

#### **5.1 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE CONSTRUCTION WORK**

5.1.1 Unless otherwise stated in the Contract Documents, CM/Contractor shall submit in writing on the CM/Contractor Expanded List of Subcontractors, prior to entering into subcontract agreements, the names and addresses of all Subcontractors proposed for the Construction Work that were not previously listed in CM/Contractor's Bid. CM/Contractor shall submit an updated CM/Contractor Expanded List of Subcontractors, listing all additional subcontractors resulting from Bid Package(s) with its Bid Package Certification.

5.1.2 Any Subcontractor may be disqualified if University or University's Representative determines that such Subcontractor fails to meet the requirements of the Contract Documents or for any other reasons.

5.1.3 In accordance with the Subletting and Subcontracting Fair Practices Act, nothing herein shall be deemed to entitle CM/Contractor, without the approval of University, to substitute other subcontractors for those named in current University approved CM/Contractor Expanded List of Subcontractors and, except with such approval, no such substitution shall be made.

5.1.4 Except as hereinafter provided, any increase in the cost of the Construction Work resulting from the replacement or substitution of a Subcontractor, as required by University or University's Representative pursuant to this Article 5.1 shall be borne solely

by CM/Contractor and CM/Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time on account of such replacement or substitution.

## 5.2 SUBCONTRACTUAL RELATIONS

5.2.1 Any part of the Construction Work performed for CM/Contractor by a first-tier Subcontractor shall be pursuant to a written subcontract. Each such subcontract shall require the Subcontractor, to the extent of the Construction Work to be performed by the Subcontractor, to be bound to CM/Contractor by the terms of the Contract Documents, to assume toward CM/Contractor all the obligations and responsibilities which CM/Contractor assumes towards University by the Contract Documents, and to perform such portion of the Construction Work in accordance with the Contract Documents. Each such subcontract shall preserve and protect the rights of University under the Contract Documents, with respect to the Construction Work to be performed by Subcontractor, so that subcontracting thereof will not prejudice such rights. CM/Contractor shall cause each such subcontract to expressly include the following requirements:

- .1 Subcontractor waives all rights that Subcontractor may have against University for damages caused by fire or other perils covered by builder's risk property insurance carried by CM/Contractor or University, except for such rights Subcontractor may have to the proceeds of such insurance held by University under Article 11 of the General Conditions.
- .2 University and entities and agencies designated by University will have access to and the right to audit and the right to copy at University's cost all of Subcontractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work. Subcontractor shall preserve all such records and other items for a period of at least 3 years after Final Completion.
- .3 Subcontractor recognizes the rights of University under Article 5.3, Contingent Assignment of Subcontracts, below and agrees, upon notice from University that University has elected to accept said assignment and to retain Subcontractor pursuant to the terms of the subcontract, to complete the unperformed obligations under the subcontract and, if requested by University, to execute a written agreement confirming that Subcontractor is bound to University under the terms of the subcontract.

5.2.2 Upon the request of University, CM/Contractor shall promptly furnish to University a true, complete, and executed copy of any subcontract.

5.2.3 Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and University, except when, and only to the extent that, University elects to accept the assignment of the subcontract with such Subcontractor pursuant to Article 5.3, Contingent Assignment of Subcontracts, below.

## 5.3 CONTINGENT ASSIGNMENT OF SUBCONTRACTS

5.3.1 CM/Contractor hereby assigns to University all its interest in first-tier subcontracts now or hereafter entered into by CM/Contractor for performance of any part of the Work. The assignment will be effective upon acceptance by University in writing and only as to those subcontracts which University designates in writing. University may accept said assignment at any time during the course of the Work and prior to Final Completion in the event of a suspension or termination of CM/Contractor's rights under the Contract Documents. Such assignment is part of the consideration to University for entering into the Contract with CM/Contractor and may not be withdrawn prior to Final Completion.

## ARTICLE 6

### CONSTRUCTION BY UNIVERSITY OR BY SEPARATE CONTRACTORS

#### 6.1 UNIVERSITY'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

6.1.1 University reserves the right to award separate contracts for, or to perform with its own forces, construction or operations related to the Work or other construction or operations at or affecting the Project Site, including portions of the Work which have been deleted by Change Order. CM/Contractor shall cooperate with University's forces and Separate Contractors.

6.1.2 University will provide coordination of the activities of University's forces and of each Separate Contractor with the Work of CM/Contractor. CM/Contractor shall participate with University and Separate Contractors in joint review of construction schedules and Project requirements when directed to do so. CM/Contractor shall make necessary revisions to the Contract Schedule after such joint review.

#### 6.2 MUTUAL RESPONSIBILITY

6.2.1 CM/Contractor shall afford University and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities. CM/Contractor shall connect, schedule, and coordinate its construction and operations with the construction and operations of University and Separate Contractors as required by the Contract Documents.

6.2.2 If a portion of the Construction Work is dependent upon the proper execution or results of other construction or operations by University or Separate Contractors, CM/Contractor shall inspect such other construction or operations before proceeding with that portion of the Construction Work. CM/Contractor shall promptly report to University's Representative apparent discrepancies or defects

which render the other construction or operations unsuitable to receive the Construction Work. Unless otherwise directed by University's Representative, CM/Contractor shall not proceed with the portion of the Construction Work affected until apparent discrepancies or defects have been corrected. Failure of CM/Contractor to so report within a reasonable time after discovering such discrepancies or defects shall constitute an acknowledgment that the other construction or operations by University or Separate Contractors is suitable to receive the Construction Work, except as to defects not then reasonably discoverable.

### **6.3 UNIVERSITY'S RIGHT TO CLEAN UP**

6.3.1 If a dispute arises between CM/Contractor and Separate Contractors as to the responsibility under their respective contracts for maintaining the Project Site and surrounding areas free from waste materials and rubbish, University may clean up and allocate the cost between those firms it deems to be responsible.

## **ARTICLE 7** **CHANGES IN THE WORK**

### **7.1 CHANGES**

7.1.1 University may, from time to time, order or authorize additions, deletions, and other changes in the Work by Change Order or Field Order without invalidating the Contract and without notice to sureties. Absence of such notice shall not relieve such sureties of any of their obligations to University.

7.1.2 CM/Contractor may request a Change Order under the procedures specified in Article 4.2 of the General Conditions.

7.1.3 A Field Order may be issued by University, does not require the agreement of CM/Contractor, and shall be valid with or without the signature of CM/Contractor.

7.1.4 CM/Contractor shall proceed promptly with any changes in the Work, unless otherwise provided in the relevant Change Order or Field Order.

### **7.2 DEFINITIONS**

7.2.1 A Change Order is a Contract Document (as shown in the Exhibits) which has been signed by both University and CM/Contractor, and states their agreement, as applicable, to the following:

- .1 A change in the Work, if any.
- .2 The amount of an adjustment of the Contract Sum, if any.
- .3 The amount of an adjustment of the Contract Time, if any.
- .4 A modification to any other Contract term or condition.

7.2.2 A Unilateral Change Order may also be issued by University, without CM/Contractor's signature, where University determines that a change in the Work requires an adjustment of the Contract Sum or Contract Time, even though no agreement has been reached between University and CM/Contractor.

7.2.3 A Field Order (as shown in Exhibits) is a Contract Document issued by the University that orders the CM/Contractor to perform Work. A Field Order may, but need not, constitute a change in the Work and may, but need not, entitle CM/Contractor to an adjustment of the Contract Sum or Contract Time.

### **7.3 CHANGE ORDER PROCEDURES**

7.3.1 CM/Contractor shall provide a Change Order Request and Cost Proposal pursuant to Article 4.2 of the General Conditions and this Article 7.3. Adjustments of the Contract Sum resulting from Extra Work and Deductive Work shall be determined using one of the methods described in this Article 7.3. Adjustments of the Contract Time shall be subject to the provisions in Article 8 of the General Conditions. CM/Contractor's obligation to provide Cost Proposals shall be subject to the following:

- .1 The obligation of CM/Contractor to provide Cost Proposals is not Extra Work, and shall not entitle the CM/Contractor to an adjustment of the Contract Sum or Contract Time.
- .2 The failure of CM/Contractor to timely provide a Cost Proposal pursuant to Article 4.2 and this Article 7.3.1 is a material breach of the Contract. CM/Contractor shall be responsible for any delay in implementing a change for which CM/Contractor failed to timely provide a Cost Proposal consistent with the requirements of Article 4.2 and this Article 7.3.1.

7.3.2 The term "Cost of Extra Work" as used in this Article 7.3 shall mean actual costs incurred or to be incurred by CM/Contractor and each Subcontractor regardless of tier involved, to the extent not otherwise disallowed under Article 7.3.3, and shall be limited to the following (to the extent the CM/Contractor demonstrates that the costs are both reasonable and actually incurred, if such costs have been incurred):

- .1 Straight-time wages or salaries for employees employed at the Project Site, or at fabrication sites off the Project Site, incurred as a result of the performance of the Extra Work.

- .2 Fringe Benefits and Payroll Taxes for employees employed at the Project Site, or at fabrication sites off the Project Site, incurred as a result of the performance of the Extra Work.
- .3 Overtime wages or salaries, specifically authorized in writing by University's Representative, for employees employed at the Project Site, or at fabrication sites off the Project Site, incurred as a result of the performance of the Extra Work.
- .4 Fringe Benefits and Payroll Taxes for overtime Work specifically authorized in writing by University's Representative, for employees employed at the Project Site, or at fabrication sites off the Project Site, incurred as a result of the performance of the Extra Work.
- .5 Costs of materials and consumable items which are furnished and incorporated into the Extra Work as approved by University's Representative. Such costs shall be charged at the lowest price available to the CM/Contractor but in no event shall such costs exceed competitive costs obtainable from other subcontractors, suppliers, manufacturers, and distributors in the area of the Project Site. All discounts, rebates, and refunds and all returns from sale of surplus materials and consumable items shall accrue to University and CM/Contractor shall make provisions so that they may be obtained.
- .6 Sales tax on the cost of materials and consumable items, which are incorporated into and used in the performance of the Extra Work pursuant to Article 7.3.2.5 above.
- .7 Rental charges for necessary machinery and equipment, whether owned or hired, as authorized in writing by University's Representative, exclusive of hand tools, used directly in the performance of the Extra Work. Such rental charges shall not exceed the current Equipment Rental Rates published by the California Department of Transportation for the area in which the work is performed. Such rental rates are found at <http://www.dot.ca.gov/hq/construc/equipmnt.html>. CM/Contractor shall attach a copy of said schedule to the Cost Proposal. The charges for any machinery and equipment shall cease when the use thereof is no longer necessary for the Extra Work.
- .8 Additional costs of royalties and permits due to the performance of the Extra Work.
- .9 The cost for Insurance and Bonds shall not exceed 0.75% of items .1 through .8 above.

University and CM/Contractor may agree upon rates to be charged for any of the items listed in this Article 7.3.2. Such agreed upon rates shall be subject to audit pursuant to Article 15.7 of the General Conditions. CM/Contractor shall promptly refund to University any amounts (including associated mark-ups) in excess of the actual costs of such items.

7.3.3 Cost of Extra Work shall not include any of the following:

- .1 Supervision
- .2 Superintendent(s)
- .3 Assistant Superintendent(s)
- .4 Project Engineer(s)
- .5 Project Manager(s)
- .6 Scheduler(s)
- .7 Estimator(s)
- .8 Small tools (Replacement value does not exceed \$300)
- .9 Office expenses including staff, materials and supplies
- .10 On-site or off-site trailer and storage rental and expenses
- .11 Site fencing
- .12 Utilities including gas, electric, sewer, water, telephone, telefax, copier equipment
- .13 Data processing personnel and equipment
- .14 Federal, state, or local business income and franchise taxes
- .15 Overhead and Profit
- .16 Costs and expenses of any kind or item not specifically and expressly included in Article 7.3.2 above
- .17 Costs and expenses of any kind or item specifically and expressly included in definition of CM/Contractor Base Fee

7.3.4 The term "CM/Contractor Fee" shall mean the full amount of compensation, both direct and indirect (including without limitation all overhead and profit) to be paid to CM/Contractor for its own Work and the Work of all Subcontractors, for all costs and expenses not included in the Cost of Extra Work, whether or not such costs and expenses are specifically referred to in Article 7.3.3 above. The CM/Contractor Fee shall not be compounded. The CM/Contractor Fee shall be computed as follows:

- .1 Fifteen percent (15%) of the cost of that portion of the Extra Work to be performed by the CM/Contractor with its own forces.
- .2 Fifteen percent (15%) of the cost of that portion of the Work to be performed by a Subcontractor with its own forces, plus 5% for the CM/Contractor. Total combined CM/Contractor and Subcontractor fee shall not exceed 20%.
- .3 Fifteen percent (15%) of the cost of that portion of the Work to be performed by a sub-subcontractor with its own forces, or any lower tier of Subcontractor, plus 5% for the Subcontractor, plus 5% for the CM/Contractor. Total combined CM/Contractor, Subcontractor and all sub-subcontractor fee shall not exceed 25%.

7.3.5 Compensation for Extra Work shall be computed on the basis of the following:

- .1 Where the Work involved is covered by Unit Prices contained in the Contract Documents, by application of the Unit Prices to the quantities of the items involved.
- .2 Where Unit Prices are not applicable, a mutually agreed upon lump sum supported by a Cost Proposal pursuant to Article 7.3.1 above.
- .3 Where University and CM/Contractor cannot agree upon a lump sum, by the Cost of Extra Work plus CM/Contractor Fee applicable to such Extra Work.
- .4 The CM/Contractor shall not be entitled to any CM/Contractor Fee under any of the foregoing provisions, except for the fees for subcontractors of any tier, if the Contract Sum is then below Maximum Anticipated Contract Value.

7.3.6 As a condition to CM/Contractor's right to an adjustment of the Contract Sum, pursuant to Article 7.3.5.3 above, CM/Contractor must keep daily detailed and accurate records itemizing each element of cost and shall provide substantiating records and documentation, including time cards and invoices. Such records and documentation shall be submitted to University's Representative on a daily basis.

7.3.7 For Work to be deleted by Change Order, the reduction of the Contract Sum shall be computed on the basis of one or more of the following:

- .1 Unit Prices stated in the Contract Documents.
- .2 Where Unit Prices are not applicable, a lump sum agreed upon by University and CM/Contractor, based upon the actual costs which would have been incurred in performing the deleted portions of the Work as calculated in accordance with Articles 7.3.2 and 7.3.3 above, supported by a Cost Proposal pursuant to Article 7.3.1 above.

7.3.8 If any one Change involves both Extra Work and Deleted Work in the same portion of the Work, a CM/Contractor Fee will not be allowed if the deductive cost exceeds the additive cost. If the additive cost exceeds the deductive cost, a CM/Contractor Fee will be allowed only on the difference between the two amounts, subject to limitations in Article 7.3.5.5 above.

7.3.9 The Contract Sum will be adjusted for a delay if, and only if, CM/Contractor demonstrates that all of the following three conditions are met:

- .1 Condition Number One: The delay results in an extension of the Contract Time pursuant to Article 8.4.1 of the General Conditions.
- .2 Condition Number Two: The delay is caused solely by one or more of the following:
  - .1 An error or omission in the Contract Documents; or
  - .2 The University's decision to change the scope of the Work, where such decision is not the result of any default or misconduct of the CM/Contractor; or
  - .3 The University's decision to suspend the Work, where such decision is not the result of any default or misconduct of the CM/Contractor; or
  - .4 The failure of the University (including the University acting through its consultants, Design Professionals, Separate Contractors or the University's Representative) to timely perform any Contract obligation where the failure to so perform is not the result of any default or misconduct of the CM/Contractor; or
  - .5 The decision of the University to direct the rejection of all bids for a given Bid Package(s) and the rebidding of same, if such rejection is not due to the failure of the CM/Contractor to fulfill its obligation to provide a Project Construction Cost Estimate per the requirements of the Agreement; or
  - .6 A materially differing site condition pursuant to Article 3.17 of the General Conditions.
- .3 Condition Number Three: The delay is not concurrent with a delay caused by an event other than those listed in Article 7.3.9.2.

7.3.10 For each day of delay that meets all three conditions prescribed in Article 7.3.9 above the Contract Sum will be adjusted by the daily rate included in the Agreement and specifically identified as the rate to be paid to CM/Contractor for Compensable Delays. Pursuant to Article 9.7.4 of the General Conditions, said daily rate shall not apply to delays occurring after Substantial Completion. Said daily rate shall not apply to Pre-Construction Services under Phase 1.

7.3.11 Except as provided in Articles 7 and 8 of the General Conditions, CM/Contractor shall have no claim for damage or compensation for any delay, interruption, hindrance, or disruption.

7.3.12 If for any reason one or more of the conditions prescribed in Article 7.3.9 above is held legally unenforceable, the remaining conditions must be met as a condition to obtaining an adjustment of the Contract Time under Article 7.3.10 above.

#### 7.4 FIELD ORDERS

7.4.1 Field Orders issued by the University's Representative shall be subject to the following:

- .1 A Field Order may state that it does or does not constitute a change in the Work.
- .2 If the Field Order states that it does not constitute a change in the Work and the CM/Contractor asserts that the Field Order constitutes a change in the Work, in order to obtain an adjustment of the Contract Sum or Contract Time for the Work encompassed by the Field Order, CM/Contractor must follow all procedures set forth in Article 4 of the General Conditions, starting with the requirement of submitting a timely Change Order Request within 7 days of CM/Contractor's receipt of the Field Order; failure to strictly follow those procedures is a bar to any Claim for an adjustment of the Contract Sum or Contract Time arising from performance of the Work described in the Field Order.
- .3 If the Field Order states that it does constitute a change in the Work, the Work described in the Field Order shall be considered Extra Work and the CM/Contractor shall be entitled to an adjustment of the Contract Sum and Contract Time, calculated under and subject to CM/Contractor's compliance with the procedures for verifying and substantiating costs and delays in Articles 7 and 8 of the General Conditions.
- .4 In addition, if the Field Order states that it does constitute a change in the Work, the Field Order may or may not contain University's estimate of adjustment of Contract Sum and/or Contract Time. If the Field Order contains an estimate of adjustment of Contract Sum or Contract Time, the Field Order is subject to the following:
  - .1 The CM/Contractor shall not exceed the University's estimate of adjustment to Contract Sum or Contract Time without prior written notification to the University's Representative.
  - .2 If the CM/Contractor asserts that the change in the Work encompassed by the Field Order may entitle CM/Contractor to an adjustment of Contract Sum or Contract Time in excess of the University's estimate, in order not to be bound by University's estimate CM/Contractor must follow all procedures set forth in Article 4 of the General Conditions, starting with the requirement of submitting a timely Change Order Request within 7 days of CM/Contractor's receipt of the Field Order; failure to strictly follow those procedures is a bar to any Claim for an adjustment of the Contract Sum or Contract Time, in excess of the University's estimate, arising from performance of the Work described in the Field Order.

7.4.2 Upon receipt of a Field Order, CM/Contractor shall promptly proceed to perform the Work as ordered in the Field Order notwithstanding any disagreement by the CM/Contractor concerning whether the Work is extra.

#### **7.5 VARIATION IN QUANTITY OF UNIT PRICE WORK**

7.5.1 University has the right to increase or decrease the quantity of any Unit price item for which an Estimated Quantity is stated in the Bid Form.

#### **7.6 WAIVER**

7.6.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 7, including without limitation the requirements in Articles 7.3.6, 7.3.8, 7.3.9, 7.3.10, 7.3.11, or 7.3.12 in connection with any adjustment of the Contract Sum, will not constitute a waiver of, and will not preclude the University or University's Representative from enforcing, such requirements in connection with any other adjustments of the Contract Sum.

7.6.2 The CM/Contractor agrees and understands that no oral approval, either express or implied, of any adjustment of the Contract Sum by University or its agents shall be binding upon University unless and until such approval is ratified by execution of a written Change Order.

### **ARTICLE 8** **CONTRACT TIME**

#### **8.1 COMMENCEMENT OF THE WORK**

8.1.1 The date of commencement of the Work shall be set forth in the Phase 1 Notice to Proceed. The date of commencement of the Work shall not be postponed by the failure of CM/Contractor, Subcontractors, or of persons or firms for whom CM/Contractor is responsible, to act.

#### **8.2 PROGRESS AND COMPLETION**

8.2.1 By signing the Agreement:

- .1 CM/Contractor represents to University that the Contract Time is reasonable for performing the Work and that CM/Contractor is able to perform the Work within the Contract Time.
- .2 CM/Contractor agrees that University is purchasing the right to have the CM/Contractor present on the Project Site for the full duration of the Contract Time, even if CM/Contractor could finish the Contract in less than the Contract Time.



8.2.2 CM/Contractor shall not, except by agreement or instruction of University in writing, commence operations on the Project Site or elsewhere prior to the effective date of insurance required by Article 11 of the General Conditions to be furnished by CM/Contractor. The dates of commencement and Final Completion of the Construction Work shall not be changed by the effective date of such insurance.

8.2.3 CM/Contractor shall proceed expeditiously with adequate forces and shall achieve Final Completion of the Work within the Contract Time. If University's Representative determines and notifies CM/Contractor that CM/Contractor's progress is such that CM/Contractor will not achieve Final Completion of the Work within the Contract Time, CM/Contractor shall immediately and at no additional cost to University, take all measures necessary, including working such overtime, additional shifts, Sundays, or holidays as may be required to ensure that the Work is fully completed within the Contract Time. Upon receipt of such notice from University's representative, CM/Contractor shall immediately notify University's Representative of all measures to be taken to ensure Final Completion of the Work within the Contract Time. CM/Contractor shall reimburse University for any extra costs or expenses (including the reasonable value of any services provided by University's employees) incurred by University as the result of such measures.

**8.3 DELAY**

8.3.1 Except and only to the extent provided otherwise in Articles 7 and 8 of the General Conditions, by signing the Agreement, CM/Contractor agrees:

- .1 To bear the risk of delays to the Work; and
- .2 That CM/Contractor's bid for the Contract was made with full knowledge of this risk.

In agreeing to bear the risk of delays to the Work, CM/Contractor understands that, except and only to the extent provided otherwise in Articles 7 and 8, the occurrence of events that delay the Work shall not excuse CM/Contractor from its obligation to achieve Final Completion of the Work within the Contract Time, and shall not entitle the CM/Contractor to an adjustment of the Contract Sum.

**8.4 ADJUSTMENT OF THE CONTRACT TIME FOR DELAY**

8.4.1 Subject to Article 8.4.2 below, the Contract Time will be extended for each day of delay for which CM/Contractor demonstrates that all of the following four conditions have been met; a time extension will not be granted for any day of delay for which CM/Contractor fails to demonstrate compliance with the four conditions:

- .1 Condition Number One: The delay is critical. A delay is critical if and only to the extent it delays a work activity that cannot be delayed without delaying Final Completion of the Work beyond the Contract Time. Under this Article 8.4.1.2, if the Contract Schedule shows Final Completion of the Work before expiration of the Contract Time, a delay is critical if and only to the extent the delay pushes Final Completion of the Work to a date that is beyond the Contract Time.
- .2 Condition Number Two: Within 7 days of the date the CM/Contractor discovers or reasonably should discover an act, error, omission or unforeseen condition or event causing the delay is likely to have an impact on the critical path of the Project, (even if the CM/Contractor has not yet been delayed when the CM/Contractor discovers or reasonably should discover the critical path impact of the act, error, omission or unforeseen condition giving rise to the delay) the CM/Contractor submits both a timely and complete Change Order Request that meets the requirements of Article 4.2 of the General Conditions.
- .3 Condition Number Three: The delay is not caused by:
  - .1 A concealed, unforeseen or unknown condition or event except for a materially differing site condition pursuant to Article 3.17 of the General Conditions; or
  - .2 The financial inability, misconduct or default of the CM/Contractor, a Subcontractor or supplier; or
  - .3 The unavailability of materials or parts.
- .4 Condition Number Four: The delay is caused by:
  - .1 Fire; or
  - .2 Strikes, boycotts, or like obstructive actions by labor organizations; or
  - .3 Acts of God (As used herein, "Acts of God" shall include only earthquakes in excess of a magnitude of 3.5 on the Richter Scale and tidal waves); or
  - .4 A materially differing site condition pursuant to Article 3.17 of the General Conditions; or
  - .5 An error or omission in the Contract Documents; or
  - .6 The University's decision to change the scope of the Work, where such decision is not the result of any default or misconduct of the CM/Contractor; or
  - .7 The University's decision to suspend the Construction Work, where such decision is not the result of any default or misconduct of the CM/Contractor; or
  - .8 The failure of the University (including the University acting through its consultants, Design Professionals, Separate Contractors or the University's Representative) to perform any Contract obligation unless such failure is due to CM/Contractor's default or misconduct; or
  - .9 "Adverse weather," but only for such days of adverse weather, or on-site conditions caused by adverse weather, that are in excess of the number of days specified in the Supplementary Conditions. In order for a day to be considered a day of adverse weather for the purpose of determining whether CM/Contractor is entitled to an adjustment in Contract Time, both of the following conditions must be met:
    - .1 The day must be a day in which, as a result of adverse weather, less than one half day of critical path work is performed by CM/Contractor; and
    - .2 The day must be identified in the Contract Schedule as a scheduled work day.

8.4.2 If and only if a delay meets all four conditions prescribed in Article 8.4.1, then a time extension will be granted for each day that Final Completion of the Work is delayed beyond the Contract Time, subject to the following:

- .1 When two or more delays (each of which meet all four conditions prescribed in Article 8.4.1) occur concurrently on the same day, and each such concurrent delay by itself without consideration of the other delays would be critical, then all such concurrent delays shall be considered critical. For the purpose of determining whether and to what extent the Contract Time should be adjusted pursuant to this Article 8.4.2, such concurrent critical delays shall be treated as a single delay for each such day.
- .2 CM/Contractor shall be entitled to a time extension for a day of delay that meets all four requirements of Article 8.4.1 if the delay is concurrent with a delay that does not meet all four conditions of Article 8.4.1.

8.4.3 If for any reason one or more of the four conditions prescribed in Article 8.4.1 above is held legally unenforceable, then all remaining conditions must be met as a condition to obtaining an extension of the Contract Time under Article 8.4.2.

## 8.5 COMPENSATION FOR DELAY

8.5.1 To the maximum extent allowed by law, any adjustment of the Contract Sum as the result of delays shall be limited to the amounts specified in Article 7 of the General Conditions. Such adjustment shall, to the maximum extent allowed by law, constitute payment in full for all delay related costs (including costs for disruption, interruption and hindrance, general conditions, on and off-site overhead and profit) of CM/Contractor, its Suppliers and Subcontractors of all tiers and all persons and entities working under or claiming through CM/Contractor in connection with the Project.

8.5.2 By signing the Agreement, the parties agree that the University is buying the right to do any or all of the following, which are reasonable and within the contemplation of the parties:

- .1 To order changes in the Work, regardless of the extent and number of changes, including without limitation:
  - .1 Changes to correct errors or omissions, if any, in the Contract Documents.
  - .2 Changes resulting from the University's decision to change the scope of the Work subsequent to execution of the Contract.
  - .3 Changes due to unforeseen conditions.
- .2 To suspend the Work or any part thereof.
- .3 To delay the Work, including without limitation, delays resulting from the failure of the University or the University's Representative to timely perform any Contract obligation and delays for University's convenience.

## 8.6 WAIVER

8.6.1 A waiver of or failure by University or University's Representative to enforce any requirement in this Article 8, including without limitation the requirements in Article 8.4 above, in connection with any or all past delays shall not constitute a waiver of, and shall not preclude the University or University's Representative from enforcing, such requirements in connection with any present or future delays.

8.6.2 CM/Contractor agrees and understands that no oral approval, either express or implied, of any time extension by University or its agents shall be binding upon University unless and until such approval is ratified by execution of a written Change Order.

## ARTICLE 9 PAYMENTS AND COMPLETION

### 9.1 COST BREAKDOWN

9.1.1 Within 10 days after receipt of the Notice of Intent, CM/Contractor shall submit to University's Representative a Cost Breakdown of the Contract Sum in the form contained in the Exhibits. The Cost Breakdown shall itemize as separate line items the cost of each Work Activity and all associated costs, including but not limited to warranties, as-built documents, overhead expenses, and the total allowance for profit. Insurance and bonds shall each be listed as separate line items. The total of all line items shall equal the Contract Sum. The Cost Breakdown, when approved by the University's Representative, shall become the basis for determining the cost of Work performed for CM/Contractor's Applications for Payment. The Cost Breakdown shall be amended and updated after each Bid Package is bid and shall be submitted for University approval by the University's Representative. Such approval shall be obtained prior to University issuing a Contract Amendment incorporating the Bid Package into the Contract.

### 9.2 PROGRESS PAYMENT

9.2.1 University agrees to pay monthly to CM/Contractor, subject to Article 9.4.3 below, an amount equal to 95% of the sum of the following:

- .1 Cost of the Construction Work in permanent place as of the date of the CM/Contractor's Application for Payment.
- .2 Plus cost of materials not yet incorporated in the Construction Work, subject to Article 9.3.5 below.

- .3 Less amounts previously paid.
- .4 For Pre-Construction Services, the University shall pay CM/Contractor monthly a prorated amount, based on the Contract Sum for Phase 1.

Under this Article 9.2.1, University may, but is not required, to pay CM/Contractor more frequently than monthly.

9.2.2 After Substantial Completion and subject to Article 9.4.3 below, University will make any of the remaining progress payments in full.

### 9.3 APPLICATION FOR PAYMENT

9.3.1 On or before the 10th day of the month or such other date as is established by the Contract Documents, CM/Contractor shall submit to University's Representative an itemized Application for Payment, for the cost of the Work in permanent place, as approved by University's Representative, which has been completed in accordance with the Contract Documents, less amounts previously paid. The Application for Payment shall be prepared as follows:

- .1 Use the form contained in the Exhibits.
- .2 Itemize in accordance with the Cost Breakdown.
- .3 Include such data substantiating CM/Contractor's right to payment as University's Representative may reasonably require, such as invoices, certified payrolls, daily time and material records, and, if securities are deposited in lieu of retention pursuant to Article 9.5 below, a certification of the market value of all such securities as of a date not earlier than 5 days prior to the date of the Application for Payment.
- .4 Itemize retention.

9.3.2 Applications for Payment shall not include requests for payment on account of (1) changes which have not been authorized by Change Orders or (2) amounts CM/Contractor does not intend to pay a Subcontractor because of a dispute or other reason.

9.3.3 If required by University, an Application for Payment shall be accompanied by (1) a summary showing payments that will be made to Subcontractors covered by such application and conditional waivers and releases of claims and stop payment notices upon progress payment and final payment in the form contained in the Exhibits, and (2) unconditional waivers and releases of claims and stop payment notices, in the form contained in the Exhibits, from each Subcontractor listed in the preceding Application for Payment covering sums disbursed pursuant to that preceding Application for Payment.

9.3.4 CM/Contractor warrants that, upon submittal of an Application for Payment, all Work, for which Certificates for Payment have been previously issued and payment has been received from University, shall be free and clear of all claims, stop payment notices, security interests, and encumbrances in favor of CM/Contractor, Subcontractors, or other persons or firms entitled to make claims by reason of having provided labor, materials, or equipment relating to the Work.

9.3.5 At the sole discretion of University, University's Representative may approve for inclusion in the Application for Payment the cost of materials not yet incorporated in the Work but already delivered and suitably stored either at the Project Site or at some other appropriate location acceptable to University's Representative. In such case, CM/Contractor shall furnish evidence satisfactory to University's Representative (1) of the cost of such materials and (2) that such materials are under the exclusive control of CM/Contractor. Only materials to be incorporated in the Work will be considered for payment. Any payment shall not be construed as acceptance of such materials nor relieve CM/Contractor from sole responsibility for the care and protection of such materials; nor relieve CM/Contractor from risk of loss to such materials from any cause whatsoever; nor relieve CM/Contractor from its obligation to complete the Work in accordance with the Contract; nor act as a waiver of the right of University to require fulfillment of all terms of the Contract. Nothing contained within this Article 9.3.5 shall be deemed to obligate University to agree to payment for any non-incorporated materials or any part thereof, payment being in the sole and absolute discretion of University.

### 9.4 CERTIFICATE FOR PAYMENT

9.4.1 If CM/Contractor has submitted an Application for Payment in accordance with Paragraph 9.3, University's Representative shall, not later than 5 working days after the date of receipt of the Application for Payment, issue to University, with a copy to CM/Contractor, a Certificate for Payment for such amount as University's Representative determines to be properly due.

9.4.2 If any such Application for Payment is determined not to be in accordance with Article 9.3 above, University will inform CM/Contractor as soon as practicable, but not later than 5 working days after receipt. Thereafter, CM/Contractor shall have 3 days to revise and resubmit such Application for Payment; otherwise University's Representative may issue a Certificate for Payment in the amount that University's Representative determines to be properly due without regard to such Application for Payment.

9.4.3 Approval of all or any part of an Application for Payment may be withheld, a Certificate for Payment may be withheld, and all or part of a previous Certificate for Payment may be nullified and that amount withheld from a current Certificate for Payment on account of any of the following:

- .1 Defective Work not remedied

- .2 Third-party claims against CM/Contractor or University arising from the acts or omissions of CM/Contractor or Subcontractors
- .3 Stop payment notices
- .4 Failure of CM/Contractor to make timely payments due Subcontractors for material or labor
- .5 A reasonable doubt that the Construction Work can be completed for the balance of the Contract Sum then unpaid
- .6 Damage to University or Separate Contractor for which CM/Contractor is responsible
- .7 Reasonable evidence that the Work will not be completed within the Contract Time; and that the unpaid balance of the Contract Sum would not be adequate to cover University's damages for the anticipated delay
- .8 Failure of CM/Contractor to maintain and update as-built documents
- .9 Failure of CM/Contractor to submit schedules or their updates as required by the Contract Documents
- .10 Failure to provide conditional or unconditional releases from any Subcontractor or supplier, if such waiver(s) have been requested by University's Representative
- .11 Performance of Construction Work by CM/Contractor without properly processed Shop Drawings
- .12 Liquidated damages assessed in accordance with Article 6 of the Agreement
- .13 Failure to provide updated Reports of Subcontractor Information and Self-Certifications, as applicable
- .14 Failure to provide a Final Distribution of Contract Dollars with final Application for Payment
- .15 Failure of CM/Contractor, any of its Subcontractors, or any person or entity under CM/Contractor, to provide any required insurance information (including submitting completed forms identified in the Insurance Manual)
- .16 Any other failure of CM/Contractor to perform its obligations under the Contract Documents

9.4.4 Subject to the withholding provisions of Subparagraph 9.4.3, University will pay CM/Contractor the amount set forth in the Certificate for Payment no later than 10 days after the issuance of the Certificate for Payment.

9.4.5 Neither University nor University's Representative will have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

9.4.6 Neither a Certificate for Payment nor a progress payment made by University will constitute acceptance of Defective Work.

## **9.5 DEPOSIT OF SECURITIES IN LIEU OF RETENTION AND DEPOSIT OF RETENTION INTO ESCROW**

9.5.1 At the request and expense of CM/Contractor, a substitution of securities may be made for any monies retained by University under Article 9.2 to ensure performance under the Contract Documents. Securities equivalent in value to the retention amount required by the Contract Documents for each Certificate for Payment shall be deposited by CM/Contractor with a state or federally chartered bank in the State of California ("Escrow Agent"), which shall hold such securities pursuant to the escrow agreement referred to in Article 9.5.3 until retention is due in accordance with Article 9.8. Securities shall be valued as often as conditions of the securities market warrant, but in no case less than once per month. CM/Contractor shall deposit additional securities so that the current market value of the total of all deposited securities shall be at least equal to the total required amount of retention.

9.5.2 Alternatively to Article 9.5.1 above, and at the request and expense of CM/Contractor, University will deposit retention directly with Escrow Agent. CM/Contractor may direct the investment of such deposited retention into interest bearing accounts or securities, and such deposits, or securities, shall be held by Escrow Agent upon the same terms provided for securities deposited by CM/Contractor. CM/Contractor and its surety shall bear the risk of failure of the Escrow Agent selected.

9.5.3 A prerequisite to the substitution of securities in lieu of retention or the deposit of retention into escrow shall be the execution by CM/Contractor, University, and Escrow Agent of an Escrow Agreement for Deposit of Securities in Lieu of Retention and Deposit of Retention in the form contained in the Exhibits. The CM/Contractor shall submit the Selection of Retention Options and the Escrow Agreement for Deposit of Securities in Lieu of Retention and Deposit of Retention not later than the date when 50% of the Work has been completed. The terms of such escrow agreement are incorporated into the requirements of this Article 9.5.

## **9.6 BENEFICIAL OCCUPANCY**

9.6.1 University reserves the right, at its option and convenience, to occupy or otherwise make use of any part of the Construction Work at any time prior to Substantial Completion or Final Completion upon 10 days' notice to CM/Contractor. Such occupancy or use is herein referred to as "Beneficial Occupancy." Beneficial Occupancy shall be subject to the following conditions:

- .1 University's Representative will make an inspection of the portion of the Project to be beneficially occupied and prepare a list of items to be completed or corrected prior to Final Completion. Prior to Beneficial Occupancy, University will issue a Certificate of Beneficial Occupancy on University's form.
- .2 Beneficial Occupancy by University shall not be construed by CM/Contractor as an acceptance by University of that portion of the Construction Work which is to be occupied.
- .3 Beneficial Occupancy by University shall not constitute a waiver of existing claims of University or CM/Contractor against each other.
- .4 CM/Contractor shall provide, in the areas beneficially occupied and on a 24 hour and 7 day week basis as required, utility services, heating, and cooling for systems which are in operable condition at the time of Beneficial Occupancy. All responsibility for the operation and maintenance of equipment shall remain with CM/Contractor while the equipment is so operated. CM/Contractor shall submit to University an itemized list of each piece of equipment so operated with the date operation commences.
- .5 The Guarantee to Repair Periods, as defined in Article 12.2 of the General Conditions, will commence upon the occupancy date stated in the Certificate of Beneficial Occupancy except that the Guarantee to Repair Periods for that part of equipment or systems that serve portions of the Work for which University has not taken Beneficial Occupancy or issued a Certificate of Substantial Completion shall not commence until the University has taken Beneficial Occupancy for that portion of the Work or has issued a Certificate of Substantial Completion with respect to the entire Project.
- .6 University will pay all normal operating and maintenance costs resulting from its use of equipment in areas beneficially occupied.
- .7 University will pay all utility costs which arise out of the Beneficial Occupancy.
- .8 CM/Contractor shall not be responsible for providing security in areas beneficially occupied.
- .9 University will use its best efforts to prevent its Beneficial Occupancy from interfering with the conduct of CM/Contractor's remaining Construction Work.
- .10 CM/Contractor shall not be required to repair damage caused by University in its Beneficial Occupancy.
- .11 Except as provided in this Article 9.6, there shall be no added cost to University due to Beneficial Occupancy.
- .12 CM/Contractor shall continue to maintain all insurance required by the Contract in full force and effect.

## 9.7 SUBSTANTIAL COMPLETION

9.7.1 "Substantial Completion" means the stage in the progress of the Construction Work, as determined by University's Representative, when the Construction Work is complete and in accordance with the Contract Documents except only for completion of minor items which do not impair University's ability to occupy and fully utilize the Construction Work for its intended purpose and a Certificate of Occupancy has been issued by the University.

9.7.2 When CM/Contractor gives notice to University's Representative that the Construction Work is substantially complete, unless University's Representative determines that the Construction Work is not sufficiently complete to warrant an inspection to determine Substantial Completion, University's Representative will inspect the Construction Work. If the University's Representative determines that the Work is not substantially completed the University's Representative will prepare and give to CM/Contractor a comprehensive list of items to be completed or corrected before establishing Substantial Completion. CM/Contractor shall proceed promptly to complete and correct items on the list. Failure to include an item on such list does not alter the responsibility of CM/Contractor to complete all Construction Work in accordance with the Contract Documents. University's Representative will make an inspection to determine whether the Construction Work is substantially complete. Costs for additional inspection by University's Representative shall be deducted from any monies due and payable to CM/Contractor.

9.7.3 When University's Representative determines that the Construction Work is substantially complete, University's Representative will arrange for inspection by University's Building Official and other officials, as appropriate, for the purpose of issuing a Certificate of Occupancy. After a Certificate of Occupancy has been issued by the University, the University's Representative will prepare a Certificate of Substantial Completion on University's form as contained in the Exhibits, which, when signed by University, shall establish the date of Substantial Completion and the responsibilities of University and CM/Contractor for security, maintenance, utilities, insurance, and damage to the Construction Work. The University's Representative will prepare and furnish to the CM/Contractor a comprehensive "punch list" of items to be completed or corrected prior to Final Completion.

9.7.4 Unless otherwise provided in the Certificate of Substantial Completion, the Guarantee to Repair Period for the Construction Work covered by the Certificate of Substantial Completion, shall commence on the date of Substantial Completion of the Construction Work except that Substantial Completion shall not commence the Guarantee to Repair Period for any equipment or systems that:

- .1 Are not operational (equipment or systems shall not be considered operational if they cannot be used to provide the intended service); or
- .2 Are not accepted by the University.

The Guarantee to Repair Period for equipment or systems which become operational and accepted subsequent to Substantial Completion will begin on the date of their written acceptance by University.

9.7.5 The daily rate included in the Agreement and specifically identified as the rate to be paid to CM/Contractor for Compensable Delays shall not apply to any delays occurring after the Construction Work is substantially completed.

**9.8 FINAL COMPLETION, FINAL PAYMENT, AND RELEASE OF RETENTION**

9.8.1 Upon receipt of notice from CM/Contractor that the Work is ready for final inspection, University's Representative will make such inspection. Final Completion shall be when University's Representative determines that the Work is fully completed and in accordance with the Contract Documents, including without limitation, satisfaction of all "punch list" items, and determines that a Certificate of Occupancy has been issued by the University. University will file a Notice of Completion within 15 days after Final Completion. After receipt of the final Application for Payment, if University's Representative determines that Final Completion has occurred, University's Representative will issue the final Certificate for Payment.

9.8.2 Final payment and retention shall be released to CM/Contractor, as set forth in Article 9.8.3, after:

- .1 CM/Contractor submits the final Application for Payment and all submittals required in accordance with Article 9.3;
- .2 CM/Contractor submits all guarantees and warranties procured by CM/Contractor from Subcontractors, all operating manuals for equipment installed in the Project, as-built documents, and all other submittals required by the Contract Documents;
- .3 CM/Contractor submits the Final Distribution of Contract Dollars in the form contained in the Exhibits; and
- .4 University's Representative issues the final Certificate for Payment.

At its sole discretion, after Final Completion, University may waive the requirement that CM/Contractor submit a final Application for Payment before making final payment and/or release of retention to CM/Contractor.

9.8.3 Final payment shall be paid not more than 10 days after University's Representative issues the final Certificate for Payment. Retention shall be released to CM/Contractor 35 days after the filing of the Notice of Completion.

9.8.4 Acceptance of final payment by CM/Contractor shall constitute a waiver of all claims, except claims for retention and claims previously made in writing and identified by CM/Contractor as unsettled at the time of the final Application for Payment.

**ARTICLE 10**  
**PROTECTION OF PERSONS AND PROPERTY**

**10.1 SAFETY PRECAUTIONS AND PROGRAMS**

10.1.1 CM/Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

**10.2 SAFETY OF PERSONS AND PROPERTY**

10.2.1 CM/Contractor shall take adequate precautions for safety of and shall provide adequate protection to prevent damage, injury, or loss to the following:

- .1 Employees involved in the Work and other persons who may be affected thereby.
- .2 The Work in place and materials and equipment to be incorporated therein, whether in storage on or off the Project Site, under care, custody, or control of CM/Contractor or Subcontractors.
- .3 Other property at the Project Site and adjoining property.

10.2.2 CM/Contractor shall erect and maintain, as required by existing conditions and performance of the Construction Work, adequate safeguards for safety and protection, including providing adequate lighting and ventilation, posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities.

10.2.3 When use or storage of explosives, other hazardous materials, equipment, or unusual methods are necessary for execution of the Construction Work, CM/Contractor shall exercise the utmost care and carry on such activities only under the supervision of properly qualified personnel.

10.2.4 CM/Contractor shall designate a responsible member of CM/Contractor's organization at the Project Site whose duty shall be the prevention of accidents. That person shall be the Superintendent, unless otherwise designated by CM/Contractor in writing to University and University's Representative.

10.2.5 CM/Contractor shall not load or permit any part of the Work or the Project Site to be loaded so as to endanger the safety of persons or property.

**10.3 EMERGENCIES**

10.3.1 In an emergency affecting the safety of persons or property, CM/Contractor shall act to prevent or minimize damage, injury, or loss. CM/Contractor shall promptly notify University's Representative, which notice may be oral followed by written confirmation, of the occurrence of such an emergency and CM/Contractor's action.

**ARTICLE 11  
INSURANCE AND BONDS**

**11.1 UNIVERSITY CONTROLLED INSURANCE PROGRAM**

11.1.1 Overview. Except as limited by the provisions of this Article 11.1, the University shall pay for, obtain and maintain a University Controlled Insurance Program ("UCIP") providing Workers' Compensation and Employer's Liability Insurance coverage, Commercial General Liability Insurance coverage, and Excess Liability Insurance Coverage, to persons and entities enrolled in the UCIP, for Work performed on or at the Project Site during Phase 2 and summarized as follows:

**For CM-at-Risk Contracts**

Phase 1: Pre-Construction Services – UCIP does NOT apply to this portion of the Work

Phase 2: Construction - UCIP does apply to this Work

Persons and entities eligible for such coverage (see Article 11.1.2), including CM/Contractor and all Subcontractors, unless excluded under Article 11.1.5, will be required to enroll in the UCIP. Once enrolled, the UCIP will provide coverage as defined herein until the earliest of the following: the Project attains final completion as defined in Article 9.8.1, the date a Notice of Cessation is filed for the Contract, or the date the Contract is terminated pursuant to Article 13. Additionally, all enrolled eligible CM/Contractors and Subcontractors, will be required to obtain their own Commercial Automobile Liability Insurance for all Work (on and off the Project Site), as well as their own Commercial General Liability Insurance and Workers' Compensation and Employer's Liability Insurance for their Work not covered by the UCIP (see Article 11.1.10); Excluded Parties and Eligible Parties who are not enrolled must also obtain Commercial Automobile Liability Insurance, Workers' Compensation and Employer's Liability Insurance, and Commercial General Liability Insurance for all Work (on and off the Project Site) (see Article 11.1.10). The UCIP shall be administered by the UCIP Administrator identified in the Supplementary Conditions. Pursuant to Article 4.1.4, all communications concerning the UCIP shall be through the University Representative except that written communications between the UCIP Administrator, CM/Contractor, Subcontractors, eligible, enrolled and excluded parties are authorized as follows:

- .1 For the purpose of obtaining copies of any UCIP insurance policies, the UCIP Insurance Manual and the UCIP Safety Standards Manual.
- .2 For the purpose of obtaining any certificates of insurance required by this Article 11.
- .3 For the purpose of verifying that CM/Contractor, Subcontractors, eligible parties, enrolled parties and excluded parties have obtained and maintained any insurance required by this Article 11.
- .4 For the purpose of enrolling any party in the UCIP.

11.1.2 Eligible Parties and Enrolled Parties: Except as provided in Article 11.1.5, each of the following, who will perform any labor at the Project Site in Phase 2, are an "Eligible Party:" CM/Contractor, all Subcontractors of all tiers, and such other persons or entities as University may designate, in its sole discretion. Upon receipt of written acknowledgement of enrollment from the UCIP Administrator, an Eligible Party becomes an "Enrolled Party."

11.1.3 Except as provided in Article 11.1.1, Enrolled Parties shall not obtain or maintain Workers' Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, or Excess Liability Insurance for their Work performed on or at the Project Site in Phase 2. Notwithstanding the preceding sentence, Enrolled Parties may obtain, at their own cost, exclusive of any and all bids for the Work, change order requests, claims, or any other request or demand for payment or compensation for Work:

- .1 Excess Liability Insurance over and above the UCIP Coverages; and
- .2 Insurance to Cover CM/Contractor's obligations set forth in Article 11.1.9.8; and
- .3 Any additional coverage purchased at the CM/Contractor's or Subcontractor's option and sole expense pursuant to the obligations set forth in Article 11.1.9.5.

11.1.4 Eligible Parties (unless excluded under Article 11.1.5) shall not include in their bids for any Work to be performed on or at the Project Site in Phase 2 any projected or actual cost to provide the Workers' Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, and Excess Liability Insurance that is being provided under the UCIP. Further, Enrolled Parties (unless excluded under Article 11.1.5) shall not include in any change order request, claim or other request or demand for payment or

compensation for Work to be performed, or that was performed, at the Project site any projected or actual cost to provide Workers' Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, and Excess Liability Insurance that is being provided under the UCIP. The University may reduce the Contract Sum by an amount commensurate with any projected or actual costs included contrary to the requirements of this Article 11.1.4.

11.1.5 Excluded Parties and Their Insurance Obligations. The UCIP Coverages do not cover the following "Excluded Parties:"

- .1 CM/Contractor and Subcontractors whose Work includes demolition by means of blasting techniques or wrecking ball;
- .2 CM/Contractor and Subcontractors whose Work includes hazardous materials remediation, removal and/or transportation companies and their consultants;
- .3 Architects, surveyors, engineers, and soil testing engineers, and their consultants (except for architects, surveyors, engineers and soil testing engineers that are employees of CM/Contractor or Subcontractor);
- .4 Vendors, suppliers, material dealers, manufacturing representatives, truckers, haulers, drivers, common carriers, equipment rental companies who perform equipment maintenance (does not apply to those who erect or install such rented equipment at the jobsite, or provide operators) and others who do not perform Work at or on the Project Site or who merely transport, pick up, deliver, or carry materials, personnel, parts or equipment, or any other items or persons to or from the Project Site;
- .5 Persons or Entities who are not an Eligible Party who are enrolled in the UCIP; and
- .6 Any other person or entity that the University, acting in its sole discretion, elects to exclude, even if otherwise eligible.

Excluded Parties and Eligible Parties that are not enrolled in the UCIP shall obtain and maintain the insurance coverage specified in Article 11.1.10.

11.1.6 UCIP Insurance Policies Establish the UCIP Coverages. University will provide its standard UCIP insurance coverages, subject to the deductibles, terms and conditions, exclusions, and limitations contained in the provisions of the standard UCIP policies. After contract award and following confirmation of CM/Contractor's and/or Subcontractor's completed UCIP enrollment, the UCIP Administrator will provide the CM/Contractor and/or Subcontractor with the user name and password to access the UCIP insurance policies. Pursuant to Civil Code section 2782.96, any Eligible Party or Enrolled Party receiving copies of the policies shall not disclose the policies to third parties other than to the Eligible Party's or Enrolled Party's insurance broker or attorney unless required to do so by law; the Eligible Party's or Enrolled Party's insurance broker or attorney may not disclose the policies to any third party unless required to do so by law. The summary descriptions of the UCIP Coverages in this Article 11, or elsewhere, are not intended to be complete or to alter or amend any provision of the actual UCIP Coverages. In the event that any provision of this Article, the Contract Documents, or elsewhere, conflicts with the UCIP insurance policies, the provisions of the actual UCIP insurance policies shall govern. The University's provision of its standard UCIP insurance policies meets the University's obligation to provide UCIP insurance under the Contract and, in the event of a conflict between the provisions of the policies and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University's obligation to provide UCIP insurance.

11.1.7 Summary of UCIP Coverages. UCIP Coverages shall apply only to the Work of each Enrolled Party performed on or at the Project Site in Phase 2, and only to Enrolled Parties that are eligible for the UCIP. UCIP coverages shall not apply to ineligible parties, even if they are erroneously enrolled in the UCIP. An Enrolled Party's Work away from the Project site, all pre-construction Work in Phase 1, and including product manufacturing, assembly, off-site fabrication, or otherwise, will not be covered by the UCIP. The UCIP shall provide only the following insurance to eligible and Enrolled Parties (this is only a summary):



.1	Workers' Compensation Insurance:	Statutory Limit
	This insurance is primary for all covered occurrences performed at University designated locations in California.	
.2	Employer's Liability Insurance:	
	Bodily Injury by Accident, each accident	\$1,000,000
	Bodily Injury by Disease, each employee	\$1,000,000
	Bodily Injury by Disease, policy limit	\$1,000,000
	This insurance is primary for all occurrences at the Project site.	
.3	Commercial General Liability Insurance	
	ISO CG 0001 Occurrence Form, or its equivalent:	
	Each Occurrence Limit	\$2,000,000
	General Annual Aggregate Limit	\$4,000,000
	Completed Operations Aggregate	\$4,000,000
	Subject to the terms of the policy, coverage for Completed Operations shall be included for a period of 10 years or the applicable Statute of Repose, whichever is less.	
	This insurance is primary for all occurrences at the Project Site. Aggregate limits specified are shared by all Enrolled Parties for all projects insured for the campus and any associated medical center.	
.4	Excess Liability Insurance	
	(Over Employer's Liability & General Liability):	
	Each Occurrence Limit	\$100,000,000
	General Annual Aggregate Limit	\$100,000,000
	Products & Completed Operations Aggregate	\$100,000,000
	Subject to the terms of the policy, coverage for Completed Operations shall be included for a period of 10 years or the applicable Statute of Repose, whichever is less.	
	Aggregate limits specified are shared by all Enrolled Parties for all projects insured for the campus and any associated medical center.	

Exhibit 1A, entitled *UCIP Coverage Summary*, contains a summary of the policy limits, the term of the policy, and any known exclusions to the coverages described in this Article 11.1.7. CM/Contractor, in the event of a loss, shall be responsible for the amounts set forth in Article 11.1.9 herein.

11.1.8 University's Insurance Obligations.

- .1 University shall pay the costs of premiums for the UCIP coverages.
- .2 University will receive or pay, as the case may be, all adjustments to such costs, whether by way of dividends, retroactive adjustments, return premiums, other moneys due, audits or otherwise. CM/Contractor hereby assigns to University the right to receive all such adjustments, and shall require each of its Subcontractors of every tier to assign to University the right to receive all such adjustments.
- .3 The University's obligation to obtain insurance under the UCIP shall not relieve or limit, or be construed to relieve or limit, CM/Contractor or any of its Subcontractors of any tier of any responsibility, liability, or obligation imposed by the Contract Documents, the UCIP insurance policies, or by law, including, without limitation, any indemnification obligations which CM/Contractor or any of its Subcontractors have to University.
- .4 University reserves the right at its option, without obligation to do so, to furnish other insurance coverage of various types and limits provided that such coverage is not less than that provided at the time of enrollment.

11.1.9 CM/Contractor's UCIP Obligations.

- .1 CM/Contractor shall require that the terms of this Article 11 be incorporated into all Subcontractor agreements.
- .2 CM/Contractor shall enroll in the UCIP within five (5) days of the Notice of Intent for Phase 2 of the Contract (and prior to its commencement of Work on or at the Project Site) and maintain enrollment in the UCIP until the coverage terminates pursuant to Article 11.1.1.

- .3 CM/Contractor shall assure that each of CM/Contractor's eligible Subcontractors of every tier enroll in the UCIP within five (5) days of subcontracting for Work in Phase 2 (and prior to the Subcontractor's commencement of Work at the Project site), and maintain enrollment in the UCIP until the coverage terminates pursuant to Article 11.1.1.
- .4 CM/Contractor shall comply with all of the administrative, safety, insurance, and other requirements outlined in this Article, the UCIP Insurance Manual, the UCIP Safety Standards Manual, or elsewhere in the Contract Documents.
- .5 CM/Contractor agrees that the University and the UCIP Administrator are not agents, partners or guarantors of the insurance companies (hereinafter "UCIP Insurer") providing coverage under the UCIP, that neither University nor the UCIP Administrator are responsible for any claims or disputes between or among CM/Contractor, its Subcontractors of any tier, and any UCIP Insurer(s), and that neither University nor UCIP Administrator guarantees the solvency or the availability of limits of any UCIP Insurer(s). Any type of insurance coverage or limits of liability in addition to the UCIP Coverages that CM/Contractor or its Subcontractors of any tier require for its or their own protection, or that is required by applicable laws or regulations, shall be CM/Contractor's or its Subcontractors' sole responsibility and expense.
- .6 CM/Contractor shall cooperate fully with the UCIP Administrator and the UCIP Insurers, as applicable, in its or their administration of the UCIP.
- .7 CM/Contractor shall comply, and require all of its Subcontractors to comply, with UCIP Administrator's instructions for electronically enrolling in the UCIP and for electronically reporting payroll.
- .8 In the event of a Commercial General Liability loss covered by the UCIP, CM/Contractor shall pay to the University an amount as set forth below. Payment pursuant to the preceding sentence shall not in any way limit the liability of CM/Contractor to University or otherwise. The amount to be paid, which is based on the Contract Sum of the CM/Contractor's Contract, at the time of loss, is as follows:

Contract Sum at the Time of Loss	Amount to be Paid (Per Occurrence)
\$ 2,500,000 or Less	\$10,000
\$ 2,500,001 to \$10,000,000	\$15,000
\$10,000,001 and Over	\$25,000

11.1.10 Additional Insurance Required from CM/Contractor and each of the Subcontractors, Enrolled Parties, Eligible Parties that are not enrolled, and Excluded Parties (for this Article 11.1.10, hereinafter referred as CM/Contractor and each Subcontractor) as specified in this Article 11.1.10. Unless otherwise specified herein, additional insurance policies and coverages are required during the course of construction. Such additional insurance policies and coverages shall be purchased at the expense of CM/Contractor and each Subcontractor, and maintained through the duration of the contract, defined herein as until the earliest of the following occurs: the Project attains final completion as defined in Article 9.8.1, the date a Notice of Cessation is filed for the Contract, or the date the Contract is terminated pursuant to Article 13.

- .1 Policies and coverages:
  - .1 Commercial General Liability Insurance, subject to terms no less broad than the Insurance Services Office's (ISO) form CG 0001 (2004 or later edition), or a substitute form providing coverage at least as broad as the ISO form specified, with available coverage for all Work done by or on behalf of CM/Contractor and each Subcontractor, and providing insurance for bodily injury, wrongful death, personal injury, property damage, and contractual liability. There shall be no limitations or exclusions of coverage beyond those contained in the standard ISO form CG 0001 (2004 or later edition). Except with respect to bodily injury and property damage included within the products and completed operations hazards, the aggregate limit shall apply separately to Work of CM/Contractor and each Subcontractor. Commercial General Liability Insurance for Enrolled Parties is required only for Work performed off the Project Site that has not been disclosed to the UCIP Administrator and scheduled on the UCIP policies, and all work performed during Phase-1 Pre-Construction Services. Commercial General Liability Insurance for Eligible Parties that are not enrolled, and for Excluded Parties, shall apply to all Work (both on and off the Project Site). The minimum limits required for the Commercial General Liability Insurance may be satisfied by combination of primary and umbrella/excess policies and shall not be less than the following:

	<u>Enrolled Party</u>	<u>Excluded Party/ Eligible Party Not Enrolled*</u>
Each Occurrence	\$1,000,000 .....	\$2,000,000
General Aggregate	\$2,000,000 .....	\$4,000,000
Products/Completed Operations Aggregate	\$2,000,000 .....	\$4,000,000
Personal/Advertising Injury Aggregate	\$1,000,000 .....	\$2,000,000

\* CM/Contractor shall provide enrolled insurance limits during Phase 1.

To the extent that umbrella/excess policies are used to satisfy the required minimum limits, coverage shall be at least as broad as the coverage provided under the ISO form CG 0001 (2004 or later edition).

In addition to procuring and maintaining Commercial General Liability Insurance or a combination of primary and umbrella/excess policies as required in this Article 11.1.10.1.1, CM/Contractor and each Subcontractor shall continue to maintain Products/Completed Operations liability insurance coverage for a minimum completed operations period of 10 year(s) or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less. All terms and conditions of such coverage shall be maintained during this completed operations period, including the required minimum coverage limits and the requirement to provide the University with coverage as an additional insured for completed operations as specified under this Article 11.1.10.1.1.

Additional Insured Requirements. To the maximum extent permitted by law, the Commercial General Liability Insurance shall, by endorsement to the policies, include the following:

The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, regardless of whether or not identified in the Contract Documents or to the CM/Contractor in writing, shall be included as additional insureds on the primary and umbrella/excess Commercial General Liability Insurance policies of the CM/Contractor and each Subcontractor for and relating to the ongoing and completed Work performed by the Contractor and each Subcontractor.

Such Commercial General Liability additional insured provision(s) or endorsement(s) shall be at least as broad as the Insurance Services Office's (ISO) forms CG 2010 07 04 in combination with the CG 2037 07 04 (or earlier versions of CG 2010 and CG 20 37 or Form B – CG 20 10 11 85 by itself), as published by ISO and shall be included with the Certificates of Insurance. The Contractor and each Subcontractor shall provide the University with coverage as an additional insured during the course of construction and for a minimum completed operations period of 10 year(s) or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less.

The CM/Contractor and each Subcontractor agree that the amount of insurance available to the University or the additional insured shall be for the full amount of the loss up to the available policy limits and shall not be limited to any minimum requirements stated in the Contract Documents.

It is expressly agreed and understood that all additional insured coverage afforded by CM/Contractor and Subcontractors shall be primary and non-contributing with respect to any other insurance or self-insurance purchased directly by the University and additional insureds. Any other insurance or self-insurance purchased directly by the University shall be excess of, and non-contributory with, the additional insured coverage afforded by CM/Contractor and Subcontractor policies, if any. Further, to the extent that umbrella/excess policies are used to satisfy the required minimum limits, the "other insurance" provision of such policies shall be amended to provide additional insured coverage on a primary non-contributory basis once the underlying coverage is exhausted.

Such additional insured provision(s) or endorsement(s) shall be attached to and stated on the Certificates of Insurance.

.2

Commercial Automobile Liability Insurance, subject to terms no less broad than the Insurance Services Office's (ISO) form CA 0001 (1990 or later edition), or a substitute form providing coverage at least as broad as the ISO form specified, covering owned, hired, leased, and non-owned automobiles used by or on behalf of Insured, shall provide liability insurance for bodily injury and property damage arising from the use or operation of such auto(s) with a minimum combined single limit of not less than \$1,000,000 per accident. The minimum limits required may be satisfied by combination of primary and umbrella/excess policies. The Commercial Automobile Liability Insurance shall be provided by CM/Contractor and each Subcontractor for all on site and off site Work.

Additional Insured Requirements. To the maximum extent permitted by law, the Commercial Automobile Liability Insurance shall, by endorsement to the policy, include the following:

The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants, regardless of whether or not identified in the Contract Documents or to the CM/Contractor in writing, will be included as additional insureds on the policy of the CM/Contractor and each Subcontractor for and relating to Work performed by the CM/Contractor and each Subcontractor.

The CM/Contractor shall provide status as an additional insured during the course of construction, until the earliest of the following occurs: the Project attains final completion as defined in Article 9.8.1, the date a Notice of Cessation is filed for the Contract, or the date the Contract is terminated pursuant to Article 13. Such additional insured provision(s) or endorsement(s) shall be attached to and stated on the Certificates of Insurance.

To the extent that umbrella/excess policies are used to satisfy the required limits, the "other insurance" provision of such policies shall be amended to provide additional insured coverage on a primary non-contributory basis once the underlying coverage is exhausted.

- .3 Workers' Compensation and Employer's Liability Insurance required by this Section 11.1.10.1.3 shall be provided by CM/Contractor and Enrolled Parties only for Work performed off the Project Site that has not been disclosed to the UCIP Administrator and scheduled on the UCIP policies, and all work performed during Phase-1 Pre-Construction Services. Workers' Compensation and Employer's Liability Insurance required by this Section 11.1.10.1.3 shall be provided by Eligible Parties that are not enrolled, and Excluded Parties for all Work (both on and off the Project Site). The limits required shall not be less than the following:

Workers' Compensation Insurance: Statutory Limits as required by Federal and applicable state law.

Employer's Liability Insurance:

Bodily Injury by Accident, each accident.....	\$1,000,000
Bodily Injury by Disease, each employee .....	\$1,000,000
Bodily Injury by Disease, policy limit .....	\$1,000,000

The minimum Employer's Liability Insurance limits required may be satisfied by combination of primary and umbrella/excess policies. To the extent that umbrella/excess policies are used to satisfy the required limits, the "other insurance" provision of such policies shall be amended to provide additional insured coverage on a primary non-contributory basis once the underlying coverage is exhausted.

- .4 Professional Liability Insurance to insure CM/Contractor's activities in connection with this Contract. If the insurance under this Article 11.1.10.1.4 is written on a claims-made basis, it shall be maintained continuously for a period no less than three (3) years following termination of this Contract or Final Completion, whichever occurs later. The insurance shall have a retroactive date of placement prior to or coinciding with the date services are first provided that are governed by the terms of this Contract and shall include, without limitation, coverage for professional services as called for in this Contract. The limits of liability for the Professional Liability Insurance shall be no less than the following:

Each Occurrence.....	{TBD}
General Aggregate .....	{TBD}

- .5 Any additional insurance required by the Supplementary General Conditions.

- .2 Any coverages required under this Article 11.1.10 shall not in any way limit the liability of CM/Contractor and each Subcontractor.

The insurance requirements set forth in minimum amounts shall not be construed to relieve Contractor for liability in excess of such coverage, nor shall it preclude University from taking such other actions as is available to it under any other provision of the Contract Documents.

- .3 Certificates of Insurance, executed by a duly authorized representative of each broker of record or each insurer, as evidence of their compliance with the insurance required by these Contract Documents and on the form contained in the Exhibits, and endorsements required by 11.1.10.6 shall be submitted prior to the commencement of work by the CM/Contractor each Subcontractor to the UCIP Administrator. The Certificates of Insurance shall provide for no cancellation or modification of coverage without prior written notice to UCIP Administrator, in accordance with policy provisions. Renewal certificates are to be provided to UCIP Administrator prior to the expiration of the required insurance policies.

- .4 Failure of CM/Contractor and each Subcontractor to comply with and maintain the required insurance shall constitute a default under this Contract and, at University's option, shall allow University to terminate this Contract for cause, withhold payment and/or purchase the required insurance, and the cost of such insurance shall be paid by CM/Contractor and may be deducted from the Contract Sum.

- .5 University, University's consultants, University's Representative, and University's Representative's consultants will not by reason of their inclusion as insureds incur liability to the insurance carriers for payment of premiums for such insurance. Further, the funding of deductibles and self-insured retentions maintained by CM/Contractor and Subcontractor shall be the sole responsibility of CM/Contractor and Subcontractor, including any amounts applicable to deductibles or self-insured retentions applicable to claims involving the University as an additional insured as specified in Article 11.1.10.1.

- .6 Insurance as required by Article 11.1.10, shall, by endorsement to the policies, also include the following:

- .1 As to all liability insurance policies, each shall include a waiver of subrogation endorsement evidencing that the CM/Contractor waives all rights of recovery by subrogation against University, University's Representative, University's Representative's consultants, their respective officers, agents, or employees.
- .2 Except with respect to the limits of insurance, CM/Contractor and Subcontractor required insurance shall apply separately to each insured or additional insured.

Such provision(s) or endorsement(s) shall be attached to and stated on the Certificates of Insurance.

- .7 The form and substance of all insurance policies required to be obtained under this Article 11.1.10 shall be subject to approval by University. All policies required by this Article 11.1.10 shall be issued by companies with ratings and financial classifications as specified in the Supplementary Conditions.
- .8 CM/Contractor shall, by mutual agreement with University, furnish any additional insurance as may be required by University. CM/Contractor shall provide Certificates of Insurance evidencing such additional insurance.
- .9 The Certificate of Insurance shall show (1) all companies affording coverage and (2) the name of the insured exactly in the manner as shown on the Bid Form. The name of the insured must be the name under which the entity is licensed by the State License Board.
- .10 If any insurance company refuses to use the Certificate of Insurance form as contained in the Exhibits, it must provide a Certificate of Insurance evidencing compliance with this Article, including those provisions noted under DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES section of the Certificate of Insurance Exhibit by including an endorsement to its Certificate of Insurance form covering those noted provisions exactly as they appear on the Certificate of Insurance Exhibit.
- .11 At the request of University, CM/Contractor shall submit to University copies of the policies obtained by CM/Contractor and Each Subcontractor.
- .12 If coverage under the UCIP has terminated for any reason, CM/Contractor and each Subcontractor shall not perform Work on or at the Project Site (including corrective, repair or warranty work) unless and until the insurance policies and coverages specified in this Article 11.1.10 are in effect.
- .13 All Subcontractors and sub-subcontractors, are subject to the same insurance requirements as CM/Contractor.

11.1.11 CM/Contractor's Representations and Warranties to University. CM/Contractor represents and warrants to University, and will require each of its Subcontractors of every tier to represent and warrant to University that:

- .1 All information they submit to University, or to the UCIP Administrator, shall be current, accurate and complete.
- .2 They have read the UCIP coverage summaries and have had the opportunity to read and analyze copies of the UCIP insurance policies made available by University, and they understand the UCIP Coverages. Any reference or summary in the Agreement, this Article, the Contract Documents, or elsewhere as to amount, nature, type or extent of UCIP Coverages and/or potential applicability to any potential claim or loss is for reference only. CM/Contractor and its Subcontractors of all tiers have not relied upon said references or summaries, but solely upon their own independent review and analysis of the UCIP Coverages in formulating any understanding and/or belief as to amount, nature, type or extent of any UCIP Coverages and/or its potential applicability to any potential claim or loss.
- .3 The Costs of UCIP Coverages were not included in CM/Contractor's bid or proposal, the Contract Price/Contract Sum, and will not be included in any change order request, claim, change order or any request for payment for the Work or extra work, where the UCIP applies.
- .4 CM/Contractor acknowledges that University shall not pay or compensate CM/Contractor or any Subcontractor of any tier, in any manner, for the Costs of UCIP Coverages.

11.1.12 University's Election to Modify or Discontinue the UCIP. University may, for any reason, modify the UCIP Coverages, discontinue the UCIP, or request that CM/Contractor or any of its Subcontractors of any tier withdraw from the UCIP upon thirty (30) days written notice. Upon such notice CM/Contractor and/or one or more of its Subcontractors, as specified by University in such notice, shall obtain and thereafter maintain during the performance of the Work, all (or a portion thereof as specified by University) of the UCIP Coverages. The form, content, limits of liability, cost, and the insurer issuing such replacement insurance shall be subject to University's approval. The University shall pay CM/Contractor for the reasonable cost of replacement coverage required by this Article 11.1.12.

11.1.13 Waiver of Subrogation. As to the UCIP and to the extent permitted by law, CM/Contractor and the University mutually waive all rights of recovery by subrogation arising out of deductibles which are the responsibility of the CM/Contractor under the UCIP and for claims that are covered by the UCIP insurance policies or any other reason against each other, the University's Representative, University's Representative's consultants, and their respective officers, agents, or employees, and any other enrolled contractor or enrolled Subcontractor performing Work or rendering services on behalf of University in connection with the planning, development and construction of the Project. As to other insurance as identified under Article 11.1.10, to the extent permitted by law, CM/Contractor waives all rights of recovery by subrogation, as respects loss, damage, claims, suits or demands arising out of the Work, or any other reason against University, University's Representative, University's Representative's consultants, and their respective officers, agents, or

employees, performing Work or rendering services on behalf of University in connection with the planning, development and construction of the Project. University and CM/Contractor shall also each require that all insurance policies as required hereunder Article 11.1.10.1.1, .2, .3 and .4 (other than professional liability insurance policies) related to the Work, include clauses providing that each insurer shall waive all of its rights of recovery by subrogation against each other where applicable and together with the same parties referenced immediately above in this Section 11.1.13. Subcontractor agrees to hold harmless and indemnify University for any loss or expense incurred as a result of CM/Contractor's failure to obtain such waivers of subrogation from the insurers. Where permitted by law, CM/Contractor shall require similar written express waivers and insurance clauses from each of its Subcontractors. A waiver of subrogation shall be effective as to any individual or entity even if such individual or entity (a) would otherwise have a duty of indemnification, contractual or otherwise, (b) did not pay the insurance premium directly or indirectly, and (c) whether or not such individual or entity has an insurable interest in the property damaged.

11.1.14 Duty of Care. Nothing contained in this Article, the Contract Documents, or elsewhere shall relieve the CM/Contractor or any of its Subcontractors of any tier of their respective obligations to exercise due care in the performance of their duties in connection with the Work, and to complete the Work in strict compliance with the Contract Documents.

11.1.15 Conflicts. In the event of a conflict between the Contract and the provisions of the UCIP insurance policies, the insurance policies shall govern.

11.1.16 Safety. CM/Contractor shall be solely responsible for safety on the Project. CM/Contractor shall establish a safety program that, at a minimum, complies with all local, state and Federal safety standards, and any safety standards established by University for the Project.

## 11.2 BUILDER'S RISK PROPERTY INSURANCE

11.2.1 If and only if the Anticipated Contract Value for the Construction Phase exceeds \$300,000 at the time of award of Phase 2 of the Contract, University will provide its standard builder's risk property insurance, subject to the deductibles, terms and conditions, exclusions, and limitations as contained in the provisions of the policy. A copy of the University's standard builder's risk property insurance policy is available at the University's Facility office. In addition, a summary of the provisions of the policy is included as an Exhibit to the Contract. CM/Contractor agrees that the University's provision of its standard builder's risk property insurance policy meets the University's obligation to provide builder's risk property insurance under Phase 2 of the Contract and, in the event of a conflict between the provisions of the policy and any summary or description of the provisions contained herein or otherwise, the provisions of the policy shall control and shall be conclusively presumed to fulfill the University's obligation to provide such insurance. The proceeds under such insurance policies taken out by University insuring the Work (at or on the Project Site) and materials will be payable to University and CM/Contractor as their respective interests, from time to time, may appear. CM/Contractor shall be responsible for the deductible amount in the event of a loss. In addition, nothing in this Article 11.2 shall be construed to relieve CM/Contractor of full responsibility for loss of or damage to materials not incorporated in the Work, and for CM/Contractor's tools and equipment used to perform the Work, whether on the Project Site or elsewhere, or to relieve CM/Contractor of its responsibilities referred to under this Article 11. "Materials incorporated in the Work," as used in this Article 11.2, shall mean materials furnished while in transit to, stored at, or in permanent place at the Project Site.

11.2.2 Insurance policies referred to under this Article 11.2 shall:

- .1 Include a provision that the policies are primary and do not participate with nor are excess over any other valid collectible insurance carried by CM/Contractor.
- .2 Include a waiver of subrogation against CM/Contractor, its Subcontractors, its agents and employees.
- .3 Include Additional Insured status for General Contractors, Construction Managers and subcontractors of every tier. As respects architects, engineers, manufacturers and suppliers, the foregoing is limited to their site activities only.

11.2.3 Builder's risk insurance coverage under this Article 11.2 will expire on the date of Final Completion recited in a Notice of Completion filed pursuant to Article 9.8.1. Should a Notice of Completion be filed more than 10 days after the date of Final Completion, the date of Final Completion recited in the Notice of Completion will govern.

## 11.3 PERFORMANCE BOND AND PAYMENT BOND

11.3.1 CM/Contractor shall furnish bonds covering the faithful performance of the Contract (Performance Bond) and payment of obligations arising thereunder (Payment Bond) on the forms contained in the Exhibits.

11.3.2 The Payment Bond and Performance Bond shall each be in the amount of the Anticipated Contract Value less the Phase 1 Contract Sum. If thereafter the Contract Sum exceeds the Anticipated Contract Value less the Phase 1 Contract Sum, CM/Contractor shall furnish supplemental Payment and Performance Bonds in an amount equal to any increase in the Contract Sum above the Anticipated Contract Value.

11.3.3 The Payment Bond and Performance Bond shall be in effect prior to the date the Contract Amendment for Phase 2 is signed by University. The CM/Contractor shall provide Payment Bond and Performance Bond within ten (10) days of Notice of Intent.

11.3.4 CM/Contractor shall promptly furnish such additional security as may be required by University to protect its interests and those interests of persons or firms supplying labor or materials to the Construction Work.

11.3.5 Surety companies used by CM/Contractor shall be, on the date the Contract is signed by University, an admitted surety insurer (as defined in the California Code of Civil Procedure Section 995.120).

11.3.6 The premiums for the Payment Bond and Performance Bond shall be paid by CM/Contractor.

**ARTICLE 12**  
**UNCOVERING AND CORRECTION OF WORK**

**12.1 UNCOVERING OF WORK**

12.1.1 If a portion of the Work is covered contrary to University's Representative's request or direction, or contrary to the requirements of the Contract Documents, it must, if required in writing by University's Representative, be uncovered for University's Representative's observation and be replaced at CM/Contractor's expense without adjustment of the Contract Time or the Contract Sum.

12.1.2 If a portion of the Work has been covered, which is not required by the Contract Documents to be observed or inspected prior to its being covered and which University's Representative has not specifically requested to observe prior to its being covered, University's Representative may request to see such Work and it shall be uncovered and replaced by CM/Contractor. If such Work is in accordance with the Contract Documents, the costs of uncovering and replacing the Work shall be added to the Contract Sum by Change Order; and if the uncovering and replacing of the Work extends the Contract Time, an appropriate adjustment of the Contract Time shall be made by Change Order. If such Work is not in accordance with the Contract Documents, CM/Contractor shall pay such costs and shall not be entitled to an adjustment of the Contract Time or the Contract Sum.

**12.2 CORRECTION OF DEFECTIVE WORK AND GUARANTEE TO REPAIR PERIOD**

12.2.1 The term "Guarantee to Repair Period" means a period of 1 year, unless a longer period of time is specified, commencing as follows:

- .1 For any Construction Work not described as incomplete in the Certificate of Substantial Completion, on the date of Substantial Completion.
- .2 For space beneficially occupied or for separate systems fully utilized prior to Substantial Completion pursuant to Article 9.6 of the General Conditions, from the first date of such Beneficial Occupancy or actual use, as established in a Certificate of Beneficial Occupancy.
- .3 For all Construction Work other than .1 or .2 above, from the date of Final Completion.

12.2.2 CM/Contractor shall (1) correct Defective Work that becomes apparent during the progress of the Construction Work or during the Guarantee to Repair Period and (2) replace, repair, or restore to University's satisfaction any other parts of the Construction Work and any other real or personal property which is damaged or destroyed as a result of Defective Work or the correction of Defective Work. CM/Contractor shall promptly commence such correction, replacement, repair, or restoration upon notice from University's Representative or University, but in no case later than 10 days after receipt of such notice; and CM/Contractor shall diligently and continuously prosecute such correction to completion. CM/Contractor shall bear all costs of such correction, replacement, repair, or restoration, and all losses resulting from such Defective Work, including additional testing, inspection, and compensation for University's Representative's services and expenses. CM/Contractor shall perform corrective Construction Work at such times that are acceptable to University and in such a manner as to avoid, to the extent practicable, disruption to University's activities.

12.2.3 If immediate correction of Defective Work is required for life safety or the protection of property and is performed by University or Separate Contractors, CM/Contractor shall pay to University all reasonable costs of correcting such Defective Work. CM/Contractor shall replace, repair, or restore to University's satisfaction any other parts of the Construction Work and any other real or personal property which is damaged or destroyed as a result of such Defective Work or the correction of such Defective Work.

12.2.4 CM/Contractor shall remove from the Project Site portions of the Work and materials which are not in accordance with the Contract Documents and which are neither corrected by CM/Contractor nor accepted by University.

12.2.5 If CM/Contractor fails to commence correction of Defective Work within 10 days after notice from University or University's Representative or fails to diligently prosecute such correction to completion, University may correct the Defective Work in accordance with Article 2.4 of the General Conditions; and, in addition, University may remove the Defective Work and store salvageable materials and equipment at CM/Contractor's expense.

12.2.6 If CM/Contractor fails to pay the costs of such removal and storage as required by Articles 12.2.4 and 12.2.5 above within 10 days after written demand, University may, without prejudice to other remedies, sell such materials at auction or at private sale, or otherwise dispose of such material. CM/Contractor shall be entitled to the proceeds of such sale, if any, in excess of the costs and damages for which CM/Contractor is liable to University, including compensation for University's Representative's services and expenses. If such proceeds of sale do not cover costs and damages for which CM/Contractor is liable to University, the Contract Sum shall be reduced by such deficiency. If there are no remaining payments due CM/Contractor or the remaining payments are insufficient to cover such deficiency, CM/Contractor shall promptly pay the difference to University.

12.2.7 CM/Contractor's obligations under this Article 12 are in addition to and not in limitation of its warranty under Article 3.4 of the General Conditions or any other obligation of CM/Contractor under the Contract Documents. Enforcement of CM/Contractor's express warranties and guarantees to repair contained in the Contract Documents shall be in addition to and not in limitation of any other rights or

remedies University may have under the Contract Documents or at law or in equity for Defective Work. Nothing contained in this Article 12 shall be construed to establish a period of limitation with respect to other obligations of CM/Contractor under the Contract Documents. Establishment of the Guarantee to Repair Period relates only to the specific obligation of CM/Contractor to correct the Construction Work and in no way limits either CM/Contractor's liability for Defective Work or the time within which proceedings may be commenced to enforce CM/Contractor's obligations under the Contract Documents.

**ARTICLE 13**  
**TERMINATION OR SUSPENSION OF THE CONTRACT**

**13.1 TERMINATION BY CM/CONTRACTOR**

13.1.1 Subject to Article 13.1.2 below, CM/Contractor shall have the right to terminate the Contract only upon the occurrence of one of the following:

- .1 Provided that University has not commenced reasonable action to remove any order of a court within the 90 day period, the he Construction Work is stopped for 90 consecutive days, through no act or fault of CM/Contractor, any Subcontractor, or any employee or agent of CM/Contractor or any Subcontractor, due to an issuance of an order of a court or other public authority having jurisdiction or due to an act of government, such as a declaration of a national emergency making material unavailable.
- .2 University fails to perform any material obligation under the Contract Documents and fails to cure such default within 30 days, or University has not commenced to cure such default within 30 days where such cure will require a reasonable period beyond 30 days and diligently prosecutes the same to completion, after receipt of notice from CM/Contractor stating the nature of such default.
- .3 Repeated suspensions by University, other than such suspensions as are agreed to by CM/Contractor under Article 13.3 below, which constitute in the aggregate more than 20% of the Contract Time.

13.1.2 Upon the occurrence of one of the events listed in Article 13.1.1 above, CM/Contractor may, upon 10 days additional notice to University and University's Representative, and provided that the condition giving rise to CM/Contractor's right to terminate is continuing, terminate the Contract.

13.1.3 Upon termination by CM/Contractor, University will pay to CM/Contractor the sum determined by Article 13.4.4 below. Such payment will be the sole and exclusive remedy to which CM/Contractor is entitled in the event of termination of the Contract by CM/Contractor pursuant to this Article 13.1; and CM/Contractor will be entitled to no other compensation or damages and expressly waives the same.

**13.2 TERMINATION BY UNIVERSITY FOR CAUSE**

13.2.1 University will have the right to terminate the Contract for cause at any time after the occurrence of any of the following events:

- .1 CM/Contractor becomes insolvent or files for relief under the bankruptcy laws of the United States.
- .2 CM/Contractor makes a general assignment for the benefit of its creditors or fails to pay its debts as the same become due.
- .3 A receiver is appointed to take charge of CM/Contractor's property.
- .4 The commencement or completion of any Work activity on the critical path is more than 30 days behind the date set forth in the Contract Schedule for such Work activity, and which results in an Unexcusable Delay. For a Contract with a Contract Time of less than 300 days, the 30-day period shall be reduced to the number of days commensurate with 10% of the Contract Time.
- .5 CM/Contractor abandons the Work.

13.2.2 Upon the occurrence of any of the following events, University will have the right to terminate the Contract for cause if CM/Contractor fails to promptly commence to cure such default and diligently prosecute such cure within 5 days after notice from University, or within such longer period of time as is reasonably necessary to complete such cure:

- .1 CM/Contractor persistently or repeatedly refuses or fails to supply skilled supervisory personnel, an adequate number of properly skilled workers, proper materials, or necessary equipment to prosecute the Work in accordance with the Contract Documents.
- .2 CM/Contractor fails to make prompt payment of amounts properly due Subcontractors after receiving payment from University.
- .3 CM/Contractor disregards Applicable Code Requirements.
- .4 CM/Contractor persistently or materially fails to execute the Work in accordance with the Contract Documents.



- .5 CM/Contractor is in default of any other material obligation under the Contract Documents.
- .6 CM/Contractor persistently or materially fails to comply with applicable safety requirements.

13.2.3 Upon any of the occurrences referred to in Articles 13.2.1 and 13.2.2 above, University may, at its election and by notice to CM/Contractor, terminate the Contract and take possession of the Project Site and all materials, supplies, equipment, tools, and construction equipment and machinery thereon owned by CM/Contractor; accept the assignment of any or all of the subcontracts; and then complete the Work by any method University may deem expedient. If requested by University, CM/Contractor shall remove any part or all of CM/Contractor's materials, supplies, equipment, tools, and construction equipment and machinery from the Project Site within 7 days of such request; and if CM/Contractor fails to do so, University may remove or store, and after 90 days sell, any of the same at CM/Contractor's expense.

13.2.4 If the Contract is terminated by University as provided in this Article 13.2, CM/Contractor shall not be entitled to receive any further payment until the expiration of 35 days after Final Completion and acceptance of all Construction Work by University.

13.2.5 If the unpaid balance of the Contract Sum exceeds the cost of completing the Work, including all additional costs and expenses made necessary thereby, including costs for University staff time, plus all losses sustained, including any liquidated damages provided under the Contract Documents, such excess shall be paid to CM/Contractor. If such costs, expenses, losses, and liquidated damages exceed the unpaid balance of the Contract Sum, CM/Contractor shall pay such excess to University.

13.2.6 No termination or action taken by University after termination shall prejudice any other rights or remedies of University provided by law or by the Contract Documents upon such termination; and University may proceed against CM/Contractor to recover all losses suffered by University.

### 13.3 SUSPENSION BY UNIVERSITY FOR CONVENIENCE

13.3.1 University may, at any time and from time to time, without cause, order CM/Contractor, in writing, to suspend, delay, or interrupt the Work in whole or in part for such period of time, up to 90 days, as University may determine, with such period of suspension to be computed from the date of delivery of the written order. Such order shall be specifically identified as a "Suspension Order" under this Article 13.3. The Work may be stopped for such further period as the parties may agree. Upon receipt of a Suspension Order, CM/Contractor shall, at University's expense, comply with its terms and take all reasonable steps to minimize costs allocable to the Work covered by the Suspension Order during the period of Work stoppage. Within 90 days after the issuance of the Suspension Order, or such extension to that period as is agreed upon by CM/Contractor and University, University shall either cancel the Suspension Order or delete the Work covered by such Suspension Order by issuing a Change Order.

13.3.2 If a Suspension Order is canceled or expires, CM/Contractor shall continue with the Work. A Change Order will be issued to cover any adjustments of the Contract Sum or the Contract Time necessarily caused by such suspension. Any Claim by CM/Contractor for an adjustment of the Contract Sum or the Contract Time shall be made within 21 days after the end of the Work suspension. CM/Contractor agrees that submission of its claim within said 21 days is an express condition precedent to its right to Arbitrate or Litigate such a claim.

13.3.3 The provisions of this Article 13.3 shall not apply if a Suspension Order is not issued by University. A Suspension Order shall not be required to stop the Work as permitted or required under any other provision of the Contract Documents.

### 13.4 TERMINATION BY UNIVERSITY FOR CONVENIENCE

13.4.1 University may, at its option, terminate this Contract, in whole or from time to time in part, at any time by giving notice to CM/Contractor. Upon such termination, CM/Contractor agrees to waive any claims for damages, including loss of anticipated profits, on account thereof; and, as the sole right and remedy of CM/Contractor, University shall pay CM/Contractor in accordance with Article 13.4.4 below.

13.4.2 Upon receipt of notice of termination under this Article 13.4, CM/Contractor shall, unless the notice directs otherwise, do the following:

- .1 Immediately discontinue the Work to the extent specified in the notice.
- .2 Place no further orders or subcontracts for materials, equipment, services, or facilities, except as may be necessary for completion of such portion of the Construction Work as is not discontinued.
- .3 Promptly cancel, on the most favorable terms reasonably possible, all subcontracts to the extent they relate to the performance of the discontinued portion of the Work.
- .4 Thereafter do only such Construction Work as may be necessary to preserve and protect Construction Work already in progress and to protect materials, plants, and equipment on the Project Site or in transit thereto.

13.4.3 Upon such termination, the obligations of the Contract shall continue as to portions of the Work already performed and, subject to CM/Contractor's obligations under Article 13.4.2 above, as to bona fide obligations assumed by CM/Contractor prior to the date of termination.

- 13.4.4 Upon such termination, University shall pay to CM/Contractor the sum of the following:
- .1 The amount of the Contract Sum allocable to the portion of the Work properly performed by CM/Contractor as of the date of termination, less sums previously paid to CM/Contractor.
  - .2 Plus an amount equal to the lesser of \$50,000 or 5% of the difference between the Contract Sum and the amount of the Contract Sum allocable to the portion of the Work properly performed by CM/Contractor as of the date of termination.
  - .3 Plus previously unpaid costs of any items delivered to the Project Site which were fabricated for subsequent incorporation in the Work.
  - .4 Plus any proven Losses with respect to materials and equipment directly resulting from such termination.
  - .5 Plus reasonable demobilization costs.
  - .6 Plus reasonable costs of preparing a statement of the aforesaid costs, expenses, and Losses in connection with such termination.

The above payment shall be the sole and exclusive remedy to which CM/Contractor is entitled in the event of termination of the Contract by University pursuant to this Article 13.4; and CM/Contractor will be entitled to no other compensation or damages and expressly waives same.

**ARTICLE 14**  
**STATUTORY AND OTHER REQUIREMENTS**

**14.1 PATIENT HEALTH INFORMATION (if applicable)**

14.1.1 CM/Contractor acknowledges that its employees, agents, subcontractors, consultants and others acting on its behalf may come into contact with Patient Health Information ("PHI") while performing work at the Project Site. This contact is most likely rare and brief (e.g. walking through a clinic where patient files may be visible, overhearing conversations between physicians while working or touring a hospital, noticing a relative or acquaintance receiving treatment in a University facility, etc.). CM/Contractor shall immediately notify University Representative of any such contact. Any and all forms of PHI should not be examined closer, copied, photographed, recorded in any manner, distributed or shared. CM/Contractor will adopt procedures to ensure that its employees, agents and subcontractors refrain from such activity. If CM/Contractor, its employees, agents or subcontractors do further examine, copy, photograph, record in any manner, distribute or share this information, CM/Contractor will report such actions immediately to the University Representative. CM/Contractor will immediately take all steps necessary to stop any such actions and will ensure that no further violations of this contractual responsibility will occur. CM/Contractor will report to University Representative within five (5) days after CM/Contractor gives University Representative notice of the event/action of the steps taken to prevent future occurrences.

**14.2 NONDISCRIMINATION**

14.2.1 For purposes of this Article 14.2, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.2.2 CM/Contractor shall comply and shall ensure that all Subcontractors comply with Sections 12900 through 12996, of the State of California Government Code.

14.2.3 CM/Contractor agrees as follows during the performance of the Work:

- .1 CM/Contractor shall provide equal treatment to, and shall not willfully discriminate against or allow harassment of any employee or applicant for employment on the basis of: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by the Uniformed Services Employment and Reemployment Rights Act of 1994). CM/Contractor will also take affirmative action to ensure that any such employee or applicant for employment is not discriminated against on any of the bases identified above. Such equal treatment shall apply, but not be limited to the following: employment; upgrade; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CM/Contractor also agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. CM/Contractor will, in all solicitations or advertisements for employees placed by or on behalf of CM/Contractor, state that qualified applicants will receive consideration for employment without regard to: race; color; religion; sex; age; ancestry; national origin; sexual orientation; physical or mental disability; veteran's status; medical condition (as defined in Section 12926 of the State of California Government Code and including cancer-related medical conditions and or genetic characteristics); genetic information (as defined in the Genetic Information Nondiscrimination Act of 2008 and including family medical history); marital status; gender identity, pregnancy, or citizenship (within the limits imposed by law or University's policy) or service in the uniformed services (as defined by

the Uniformed Services Employment and Reemployment Rights Act of 1994). For purposes of this provision: (1) "Pregnancy" includes pregnancy, childbirth, and medical conditions related to pregnancy and childbirth; and (2) "Service in the uniformed services" includes membership, application for membership, performance of service, application for service, or obligation for service in the uniformed services.

- .2 CM/Contractor and all Subcontractors will permit access to their records of employment, employment advertisements, application forms, and other pertinent data and records by University or any appropriate agency of the State of California designated by University for the purposes of investigation to ascertain compliance with this Article 14.2. The outcome of the investigation may result in the following:
  - .1 A finding of willful violation of the provisions of this Contract or of the Fair Employment Practices Act may be regarded by University as (1) a basis for determining that CM/Contractor is not a "responsible bidder" as to future contracts for which such CM/Contractor may submit bids or (2) a basis for refusing to accept or consider the bids of CM/Contractor for future contracts.
  - .2 University may deem a finding of willful violation of the Fair Employment Practices Act to have occurred upon receipt of written notice from the Fair Employment Practices Commission that it has (1) investigated and determined that CM/Contractor has violated the Fair Employment Practices Act and (2) issued an order under the State of California Government Code Section 12970 or obtained an injunction under Government Code Section 12973.
  - .3 Upon receipt of such written notice from the Fair Employment Practices Commission, University may notify CM/Contractor that, unless it demonstrates to the satisfaction of University within a stated period that the violation has been corrected, CM/Contractor's bids on future projects will not be considered.
- .3 CM/Contractor agrees that, should University determine that CM/Contractor has not complied with this Article 14.2, CM/Contractor shall forfeit to University, as a penalty, for each day or portion thereof, for each person who was denied employment as a result of such non-compliance, the penalties provided in Article 14.3 below for violation of prevailing wage rates. Such penalty amounts may be recovered from CM/Contractor; and University may deduct any such penalty amounts from the Contract Sum.
- .4 Nothing contained in this Article 14.2 shall be construed in any manner so as to prevent University from pursuing any other remedies that may be available at law.
- .5 CM/Contractor shall meet the following standards for compliance and provide University with satisfactory evidence of such compliance upon University's request, which shall be evaluated in each case by University:
  - .1 CM/Contractor shall notify its Superintendent and other supervisory personnel of the nondiscrimination requirements of the Contract Documents and their responsibilities thereto.
  - .2 CM/Contractor shall notify all sources of employee referrals (including unions, employment agencies, and the State of California Department of Employment) of the nondiscrimination requirements of the Contract Documents by sending to such sources and by posting the Notice of Equal Employment Opportunity (EEO).
  - .3 CM/Contractor or its representative shall, through all unions with whom it may have agreements, develop agreements that (1) define responsibilities for nondiscrimination in hiring, referrals, upgrading, and training and (2) implement an affirmative nondiscrimination program, in terms of the unions' specific areas of skill and geography, such that qualified minority women, non-minority women, and minority men shall be available and given an equal opportunity for employment.
  - .4 CM/Contractor shall notify University of opposition to the nondiscrimination requirements of the Contract Documents by individuals, firms, or organizations during the term of the Contract.
- .6 CM/Contractor shall include the provisions of the foregoing Articles 14.2.3.2.1 through 14.2.3.2.6 in all subcontracts with Subcontractors, so that such provisions will be binding upon each such Subcontractor.

### **14.3 PREVAILING WAGE RATES**

14.3.1 For purposes of this Article 14.3, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.3.2 CM/Contractor shall comply and shall ensure that all Subcontractors comply with prevailing wage law pursuant to the State of California Labor Code including but not limited to Section 1720 et seq. of the State of California Labor Code. The Work under the Contract is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations.

14.3.3 The State of California Department of Industrial Relations has ascertained the general prevailing per diem wage rates in the locality in which the Work is to be performed for each craft, classification, or type of worker required to perform the Work. A copy of the general prevailing per diem wage rates will be on file at University's principal facility office and will be made available to any interested party upon request. CM/Contractor shall post a copy of the general prevailing per diem wage rates as well as job site notices as prescribed by regulation at the job site. By this reference, such schedule is made part of the Contract Documents. CM/Contractor shall

pay not less than the prevailing wage rates, as specified in the schedule and any amendments thereto, to all workers employed by CM/Contractor in the execution of the Work. CM/Contractor shall cause all subcontracts to include the provision that all Subcontractors shall pay not less than the prevailing rates to all workers employed by such Subcontractors in the execution of the Work. CM/Contractor shall forfeit to University, as a penalty, not more than \$200 for each calendar day or portion thereof for each worker that is paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any portion of the Work done by CM/Contractor or any Subcontractor. The amount of this penalty shall be determined pursuant to applicable law. Such forfeiture amounts may be deducted from the Contract Sum or sought directly from the surety under its Performance Bond if there are insufficient funds remaining in the Contract Sum. CM/Contractor shall also pay to any worker who was paid less than the prevailing wage rate for the work or craft for which the worker was employed for any portion of the Work, for each day, or portion thereof, for which the worker was paid less than the specified prevailing per diem wage rate, an amount equal to the difference between the specified prevailing per diem wage rate and the amount which was paid to the worker. Review of any civil wage and penalty assessment shall be made pursuant to section 1742 of the California Labor Code.

#### 14.4 PAYROLL RECORDS

14.4.1 For purposes of this Article 14.4, the term Subcontractor shall not include suppliers, manufacturers, or distributors.

14.4.2 CM/Contractor and all Subcontractors shall keep an accurate payroll record, showing the name, address, social security number, job classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyworker, apprentice, worker, or other employee employed in connection with the Work. All payroll records shall be certified as being true and correct by CM/Contractor or Subcontractors keeping such records; and the payroll records shall be available for inspection at all reasonable hours at the principal office of CM/Contractor on the following basis:

- .1 A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or the employee's authorized representative on request.
- .2 A certified copy of all payroll records shall be made available for inspection upon request to University, the State of California Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the State of California Division of Industrial Relations.
- .3 A certified copy of all payroll records shall be made available upon request by the public for inspection or copies thereof made; provided, however, that the request by the public shall be made to either University, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal offices of CM/Contractor or Subcontractors. Any copy of the records made available for inspection as copies and furnished upon request to the public or any public agency by University shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of CM/Contractor awarded the Contract or performing the Contract shall not be marked or obliterated.

14.4.3 CM/Contractor shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. CM/Contractor shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and CM/Contractor shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of this Article 14.4 or with the State of California Labor Code Section 1776, CM/Contractor shall have 10 days in which to comply following receipt of notice specifying in what respects CM/Contractor must comply. Should noncompliance still be evident after the 10 day period, CM/Contractor shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Contract Sum.

#### 14.5 APPRENTICES

14.5.1 For purposes of this Article 14.5, the term Subcontractor shall not include suppliers, manufacturers, and distributors.

14.5.2 Only apprentices, as defined in the State of California Labor Code Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4, Division 3, of the State of California Labor Code, are eligible to be employed by CM/Contractor and Subcontractors as apprentices. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and written apprentice agreements under which the apprentice is training and in accordance with prevailing wage law pursuant to the Labor Code including but not limited to Section 1777.5. The CM/Contractor bears responsibility for compliance with this section for all apprenticeable occupations.

14.5.3 Every apprentice shall be paid the standard wage to apprentices, under the regulations of the craft or trade at which the apprentice is employed, and shall be employed only at the Construction Work in the craft or trade to which the apprentice is indentured.

14.5.4 When CM/Contractor or Subcontractors employ workers in any apprenticeship craft or trade on the Construction Work, CM/Contractor or Subcontractors shall (1) send contract award information to the applicable joint apprenticeship committee that can supply apprentices to the site of the public work and (2) apply to the joint apprenticeship committee, which administers the apprenticeship standards of the craft or trade in the area of the Project Site, for a certificate approving CM/Contractor or Subcontractors under the apprenticeship standards for the employment and training of apprentices in the area of the Project Site. The committee will issue a certificate fixing the number of apprentices or the ratio of apprentices to journeymen who shall be employed in the craft or trade on the Construction Work. The ratio will not exceed that stipulated in the apprenticeship standards under which the joint apprenticeship committee operates; but in no case shall the ratio be less than 1 hour of apprentice work for every 5 hours of

journey person work, except as permitted by law. CM/Contractor or Subcontractors shall, upon the issuance of the approval certificate in each such craft or trade, employ the number of apprentices or the ratio of apprentices to journeymen fixed in the certificate issued by the joint apprenticeship committee or present an exemption certificate issued by the Division of Apprenticeship Standards.

14.5.5 "Apprenticeship craft or trade," as used in this Article 14.5, shall mean a craft or trade determined as an apprenticeship occupation in accordance with rules and regulations prescribed by the Apprenticeship Council.

14.5.6 If CM/Contractor or Subcontractors employ journeymen or apprentices in any apprenticeship craft or trade in the area of the Project Site, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the Project Site are contributing, CM/Contractor and Subcontractors shall contribute to the fund or funds in each craft or trade in which they employ journeymen or apprentices on the Construction Work in the same amount or upon the same basis and in the same manner done by the other contractors. CM/Contractor may include the amount of such contributions in computing its bid for the Contract; but if CM/Contractor fails to do so, it shall not be entitled to any additional compensation therefore from University.

14.5.7 In the event CM/Contractor willfully fails to comply with this Article 14.5, it will be considered in violation of the requirements of the Contract.

14.5.8 Nothing contained herein shall be considered or interpreted as prohibiting or preventing the hiring by CM/Contractor or Subcontractors of journeyman trainees who may receive on-the-job training to enable them to achieve journeyman status in any craft or trade under standards other than those set forth for apprentices.

#### **14.6 CONSTRUCTION WORK DAY**

14.6.1 CM/Contractor shall not permit any worker to labor more than 8 hours during any 1 day or more than 40 hours during any 1 calendar week, except as permitted by law and in such cases only upon such conditions as are provided by law. CM/Contractor shall forfeit to University, as a penalty, \$25 for each worker employed in the execution of this Contract by CM/Contractor, or any Subcontractor, for each day during which such worker is required or permitted to work more than 8 hours in any 1 day and 40 hours in any 1 calendar week in violation of the terms of this Article 14.6 or in violation of the provisions of any law of the State of California. Such forfeiture amounts may be deducted from the Contract Sum. CM/Contractor and each Subcontractor shall keep, or cause to be kept, an accurate record showing the actual hours worked each day and each calendar week by each worker employed on the Project, which record shall be kept open at all reasonable hours to the inspection of University, its officers and agents, and to the inspection of the appropriate enforcement agency of the State of California.

#### **14.7 BUY CLEAN CALIFORNIA ACT**

14.7.1 The Buy Clean California Act (BCCA) requires the Department of General Services (DGS) to establish and publish the maximum acceptable Global Warming Potential (GWP) on "eligible materials", as described in Public Contract Code 3500 et seq. As of July 1, 2022, the CM/Contractor shall not install any eligible materials on the project until the CM/Contractor submits a facility-specific Environmental Product Declaration for that material that meets the published GWP requirements.

### **ARTICLE 15** **MISCELLANEOUS PROVISIONS**

#### **15.1 GOVERNING LAW**

15.1.1 The Contract shall be governed by the law of the State of California.

#### **15.2 SUCCESSORS AND ASSIGNS**

15.2.1 University and CM/Contractor respectively bind themselves and their successors, permitted assigns, and legal representatives to the other party and to the successors, permitted assigns, and legal representatives of such other party in respect to covenants, agreements, and obligations contained in the Contract Documents. Neither party to the Contract shall assign the Contract, in whole or in part, without prior written consent of the other party. Notwithstanding any such assignment, each of the original contracting parties shall remain legally responsible for all of its obligations under the Contract.

#### **15.3 RIGHTS AND REMEDIES**

15.3.1 All University's rights and remedies under the Contract Documents will be cumulative and in addition to and not in limitation of all other rights and remedies of University under the Contract Documents or otherwise available at law or in equity.

15.3.2 No action or failure to act by University or University's Representative will constitute a waiver of a right afforded them under the Contract, nor will such action or failure to act constitute approval of or acquiescence in a condition or breach thereunder, except as may be specifically agreed in writing. No waiver by University or University's Representative of any condition, breach or default will constitute a waiver of any other condition, breach or default; nor will any such waiver constitute a continuing waiver.

15.3.3 No provision contained in the Contract Documents shall create or give to third parties any claim or right of action against University, University's Representative, or CM/Contractor.

#### 15.4 SURVIVAL

15.4.1 The provisions of the Contract which by their nature survive termination of the Contract or Final Completion, including all warranties, indemnities, payment obligations, and University's right to audit CM/Contractor's books and records, shall remain in full force and effect after Final Completion or any termination of the Contract.

#### 15.5 COMPLETE AGREEMENT

15.5.1 The Contract Documents constitute the full and complete understanding of the parties and supersede any previous agreements or understandings, oral or written, with respect to the subject matter hereof. The Contract may be modified only by a written instrument signed by both parties or as provided in Articles 7 and 16 of the General Conditions.

#### 15.6 SEVERABILITY OF PROVISIONS

15.6.1 If any one or more of the provisions contained in the Contract Documents should be invalid, illegal, or unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

#### 15.7 UNIVERSITY'S RIGHT TO AUDIT

15.7.1 University and entities and agencies designated by University will have access to and the right to audit and the right to copy at University's cost all of CM/Contractor's books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work.

15.7.2 University and entities and agencies designated by University (including the UCIP Administrator and any UCIP insurer) will have access to, and the right to audit and the right to copy at University's cost, CM/Contractor's and all of its Subcontractors' payroll records, books, records, contracts, correspondence, instructions, drawings, receipts, vouchers, purchase orders, and memoranda relating to the Work.

15.7.3 Without limiting the University's rights as set forth in Article 15.7.2, the right to audit and copy shall apply to insurance coverages, insurance cost information, bid estimates, pricing for any cost in the Contract Sum or any subcontracted work, or any information that CM/Contractor or any Subcontractor provides to University, the UCIP Administrator, or the UCIP insurers as part of the UCIP, for the purpose of confirming the accuracy of such information as it relates to insurance and for the purpose of ensuring that the UCIP coverage provided by the University is not duplicated by any contractor provided coverage with such costs being included in any bid, change order, claim or payment applications for the Work (hereinafter "UCIP Coverage Audit."). Any document produced by a CM/Contractor or Subcontractor as part of a UCIP Coverage Audit that CM/Contractor or Subcontractor believes to be a "trade secret" shall be identified as such by marking the document with a "trade secret" notation or stamp on each page of the document, and by submitting the document(s) to the UCIP Administrator in a sealed envelope marked "trade secret." The University will treat any document marked "trade secret" that was obtained for the limited purpose of a UCIP Coverage Audit as confidential and will not disclose it to any third party (other than in connection with conducting and evaluating the UCIP Coverage Audit), except as required by the California Public Records Act. If a request for a document marked "trade secret" obtained through the UCIP Coverage Audit is made pursuant to the California Public Records Act, the University will give notice to the CM/Contractor so that the CM/Contractor or its Subcontractor may, at such entity's own expense, seek to obtain a court order to prevent public disclosure of the UCIP Coverage Audit information.

15.7.4 CM/Contractor and all Subcontractors shall preserve all documents referred to, and all documents containing information referred to, in this Article 15.7 during the performance of the Contract and for a period of at least 3 years after final completion. CM/Contractor shall require its Subcontractors to comply with this Article 15.7.

#### 15.8 METHODS OF DELIVERY FOR SPECIFIED DOCUMENTS

15.8.1 The following documents must be delivered in a manner specified in Article 15.8.2:

- .1 CM/Contractor Notices of election to litigate or arbitrate;
- .2 Written demand for an informal conference to meet and confer pursuant to Article 4.5;
- .3 University's written statement identifying remaining disputes following informal conference pursuant to Article 4.6;
- .4 Written demand for non-binding mediation pursuant to Article 4.6;
- .5 CM/Contractor claims pursuant to Article 4.3;
- .6 CM/Contractor notices of conditions pursuant to Articles 3.17, 3.18, or 3.19;
- .7 University's notices of CM/Contractor's failure to perform and/or correct defective work pursuant to Articles 4.1.6, 12.2 and 13.2.3;
- .8 University's notice to stop work pursuant to Article 2.3.1;
- .9 Notices of termination or suspension pursuant to Article 13.

15.8.2 Delivery methods for documents specified in Article 15.8.1:

- .1 By personal delivery.
- .2 Sent by facsimile copy where receipt is confirmed.
- .3 Sent by Express Mail, or another method of delivery providing for overnight delivery where receipt is confirmed.
- .4 Sent by registered or certified mail, postage prepaid, return receipt requested.

15.8.3 The documents identified in Article 15.8.1 shall only be effective if delivered in the manner specified in Article 15.8.2. Subject to the foregoing, such documents shall be deemed given and received upon actual receipt in the case of all except registered or certified

mail; and in the case of registered or certified mail, on the date shown on the return receipt or the date delivery during normal business hours was attempted. Delivery of the specified documents shall be made at the respective street addresses set forth in the Agreement. Such street addresses may be changed by notice given in accordance with this Article 15.8.

**15.9 TIME OF THE ESSENCE**

15.9.1 Time limits stated in the Contract Documents are of the essence of the Contract.

**15.10 MUTUAL DUTY TO MITIGATE**

15.10.1 University and CM/Contractor shall use all reasonable and economically practicable efforts to mitigate delays and damages to the Project and to one another with respect to the Project, regardless of the cause of such delay or damage.

**15.11 UC FAIR WAGE**

15.11.1 CM/Contractor shall pay all persons providing construction services and/or any labor on site, including any University location, no less than the UC Fair Wage (defined as \$15 per hour) and shall comply with all applicable federal, state and local working condition requirements.

**15.12 EXECUTION OF AGREEMENT**

15.12.1 This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement may be executed via a digital signature process and shall have the same force and effect as the use of a manual signature. The University reserves the right to reject any digital signature unless it is unique to the person using it, capable of verification, created by public key cryptography or signature dynamics, and meets all requirements of California Government Code § 16.5 and California Code of Regulations 22000 through 22005.

**ARTICLE 16**  
**CONTRACT AMENDMENTS**

**16.1 GENERAL**

16.1.1 Contract Amendments shall be used to modify the Contract when either the University elects to exercise its Option for Phase 2, or to incorporate Construction Work from a University approved Bid Package. Contract Amendments will be issued by the University unilaterally and do not require the signature of the CM/Contractor.

**16.2 INCREASE IN PERFORMANCE AND PAYMENT BONDS**

16.2.1 The amount of the Payment and Performance Bonds shall be increased by CM/Contractor, as appropriate, pursuant to Article 11.3.2 of the General Conditions upon the University's issuance of a Contract Amendment. University shall withhold payment until increased Performance and Payment Bonds are received, if they are not received within ten (10) days of the Contract Amendment.

**16.3 OPTION**

16.3.1 When a Contract Amendment is issued to exercise the University's Option for Phase 2, it shall increase the Contract Sum by the amount of the Option Sum - Phase 2 and will extend the Contract Time as set forth in Article 5 of the Agreement. No other increase of the CM/Contractor Base Fee, cost of General Conditions Work, or any other cost of the Work shall be included in the Contract Amendment; all such cost shall be included in the CM/Contractor's Option Sum - Phase 2.

**16.4 BID PACKAGE(S)**

16.4.1 When a Contract Amendment is issued to incorporate the Work of a Bid Package, only the Contract Sum will be adjusted. Contract Time associated with Bid Packages shall be incorporated into the Contract when the University elects to exercise its Option for Phase 2. The Contract Sum will only be adjusted by the amount approved by the University in the Bid Package; no additional cost for CM/Contractor's Base Fee, General Conditions Work, or any other cost of the Work shall be included in the Contract Amendment unless and until the Contract Sum exceeds the Maximum Anticipated Contract Value; if the Contract Sum exceeds the Maximum Anticipated Contract Value, the Contract Sum will be adjusted by the amount approved by the University in the Bid Package plus 5% of the amount of the Bid Package that is in excess of the Maximum Anticipated Contract Value.

END OF GENERAL CONDITIONS

## **SUPPLEMENTARY CONDITIONS**

### **1. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 3 – CM/CONTRACTOR**

Replace Article 3.12.9 of the General Conditions with the below Article 3.12.9:

#### **3.12.9 Environmental Product Declarations (BUY CLEAN CALIFORNIA)**

3.12.9.1 Contractor on construction contracts \$1,000,000 and above shall comply with California Public Contract Code Section 3500 et seq., the Buy Clean California Act ("BCCA").

3.12.9.2 The term "Eligible Materials", as used herein, shall mean the same as defined by the BCCA, and shall include at a minimum the following materials:

- (1) Carbon steel rebar.
- (2) Flat glass.
- (3) Mineral wool board insulation.
- (4) Structural steel.

3.12.9.3 Compliance with the BCCA and this Article applies to all Eligible Materials for the Project.

3.12.9.4 Contractor shall submit to University a current (as of Notice to Proceed) facility-specific Environmental Product Declaration ("EPD"), Type III, as defined by the International Organization for Standardization ("ISO") standard 14025, or similarly robust life cycle assessment methods that have uniform standards in data collection consistent with ISO standard 14025, industry acceptance, and integrity, for each Eligible Material proposed to be used on the Project. The EPD must be specific to the material manufacturer and the facility where the material is manufactured.

3.12.9.5 Eligible Materials installed on the Project by Contractor must comply with any standards to the extent established in the BCCA (and listed on the Department of General Services BCCA site) or by University, whichever is more stringent. The facility-specific global warming potential for any Eligible Material must not exceed any existing maximum acceptable global warming potential for that material pursuant to the BCCA (and listed on the Department of General Services BCCA site) or by University, whichever is more stringent.

3.12.9.6 Contractor shall not install any Eligible Materials on the Project until Contractor submits a facility-specific EPD for that material which demonstrates that the material complies with any existing Eligible Material Standards (as included in the bid documents and as listed on the Department of General Services BCCA site) and this Article and the EPD is approved by the University. Contractor shall be responsible for any losses, expenses, penalties or damages of any type incurred or sustained by University, including but not limited to removal and replacement of Defective Work, which are caused by Contractor's failure to comply with the requirements of the BCCA or this Article.

3.12.9.7. Eligible exemptions may be approved with submission of a UC BCCA Exemption Form for qualifying exemptions as noted in the Facility Manual.

The following new Subparagraph 3.9.12 is added to Paragraph 3.9:

3.9.12 The CM/Contractor shall insert, in all Preliminary Contract Schedule(s) and Contract Schedule(s), Work Activity(s) corresponding to each Bid Package immediately following the submittal by CM/Contractor to University of Bid Package Certification and preceding the University issuing a Contract Amendment for the Bid Package. The Work Activity shall be entitled "University Review of Bid Package Certification (Bid Package description)." This Work Activity represents the time required by the University to review the Bid Package Certification and time to resolve any bid protest under the University's Bid Protest Procedures exhibit. The CM/Contractor shall insert the duration of {TBD} for all such work activities. CM/Contractor will not be entitled to an extension of the Contract Time or compensation for delay if:

- .1 The Contract Amendment is issued on or before the expiration of the duration specified above, or
- .2 The decision of the Hearing Officer results in a determination in favor of the protesting party and the CM/Contractor was responsible for the circumstances that resulted in such decision.



Subparagraphs 3.23.3.1 and 3.23.3.2 are replaced in their entirety with the following:

3.23.3.1 The CM/Contractor may elect to bid for Construction Work for Bid Packages that primarily involve the following specific trade(s):

- .1 {TBD1}
- .2 {TBD2}
- .3 {TBD3}

3.23.3.2 The CM/Contractor shall provide written notification to University's Representative within 100 days from the Phase 1 Notice to Proceed date if CM/Contractor, a company CM/Contractor has a financial interest in, or a parent company of CM/Contractor intends to submit a bid to self-perform the work described above.

**A3. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 8 – CONTRACT TIME**

Adverse weather in excess of the following number of days will be granted a Contract Time extension pursuant to Article 8.4 of the General Conditions:

January.....- 6 days	July .....- 1 day
February.....- 6 days	August .....- 0 days
March.....- 6 days	September .....- 1 day
April .....- 3 days	October.....- 2 days
May.....- 1 day	November .....- 3 days
June.....- 1 day	December .....- 5 days

**5. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 11 – INSURANCE AND BONDS**

11.1.1 The UCIP Administrator is listed in the UCIP Manual.

11.1.10.1 The insurance required by 11.1.10.1.1 (Commercial General Liability Insurance) and 11.1.10.1.2 (Commercial Automobile Liability Insurance) shall be (i) issued by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's).

The insurance required by 11.1.10.1.3 (Workers' Compensation And Employer's Liability Insurance) shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's); or (ii) that are acceptable to the University.

The insurance required by 11.1.10.1.4 (Professional Liability Insurance) shall be issued by companies (1) that have the Best Rating of A or better (or an equivalent rating by Standard & Poor's or Moody's) or (ii) are acceptable to the University.

The following Article is added to the General Conditions pursuant to Article 11.1.2:

11.1.10.1.6 The CM/Contractor shall obtain, either itself or through the applicable Subcontractor(s) performing Work involving hazardous materials, Contractor's Pollution Liability (CPL) insurance coverage for such Work AND an endorsement to either its CPL or Business Auto policies for transporting or hauling of hazardous materials. The insurance required by this Article 11.1.10.1.6 shall be (i) issued by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's). Such CPL insurance shall be written for not less than the following minimum limits:

<u>CONTRACTOR'S POLLUTION LIABILITY – Limits of Liability</u>	<u>Minimum Requirements</u>
Each Loss .....	{TBD}
Policy Aggregate .....	{TBD}

Such CPL insurance shall, by endorsement to the policies, also include the following:

- .1 The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants shall be included as additional insureds on a primary non-contributory basis.
- .2 As to all liability insurance policies, each shall include a waiver of subrogation endorsement evidencing that the CM/Contractor and/or Subcontractor waives all rights of recovery by subrogation against University, University's Representative, University's Representative's consultants, their respective officers, agents, or employees.
- .3 Except with respect to the limits of insurance, CM/Contractor and Subcontractor required insurance shall apply separately to each insured or additional insured.
- .4 Coverage for Emergency Response Costs, with a 72-hour minimum time frame.
- .5 Coverage for Crisis Management, Public Relations Management or Equivalent.
- .6 Coverage for Mold and Fungi.
- .7 Coverage for transportation of hazardous materials.
- .8 Coverage for non-owned hazardous material disposal sites.

If coverage is provided on an Occurrence form, CM/Contractor and/or Subcontractor shall maintain and show evidence of coverage while Work involving hazardous materials is being completed, to include Completed Operations liability coverage for a minimum period of ten (10) years or the applicable Statute of Repose as provided by the law of the jurisdiction where the project is located as shown in the policy(ies), whichever is less.

If coverage is provided on a Claims-Made form, CM/Contractor shall maintain and show evidence of coverage while Work involving hazardous materials is being completed to include a ten (10)-year Extended Reporting Period from the completion of contracted services.

Coverage must extend to Transportation and Hauling of hazardous materials. The University shall require a copy of the policy endorsement noting extension of Transportation coverage. If this extension of coverage is not provided under the CM/Contractor's or applicable Subcontractor's Contractor's Pollution Liability, then the CM/Contractor/Subcontractor shall also be required to evidence the following under its Business Auto policy:

COMMERCIAL AUTO - Combined Single Limit Per Accident ..... {TBD}

Covering Transportation and/or Hauling and/or Disposing of hazardous materials by amending the pollution exclusion of ISO Form CA 00010 6/92 (or its equivalent) in the following manner:

- .1 Delete Section a.(1)a.: (Pollution) "being transported or towed away by, or handled for movement into, onto or from the Covered Auto."
- .2 Delete Section a.(1)b.: "Otherwise in the course of transit by the insured."

Coverage shall include MCS-90 endorsement and shall be endorsed to specifically limit the reimbursement provisions of the MCS-90 to the Named Insured.

In the event that CM/Contractor and/or Subcontractor utilize drone(s)/Unmanned Aerial Vehicle(s) in the performance of their Work, the following Article is added to the General Conditions pursuant to Article 11.1.2:

- 11.1.10.1.7 The CM/Contractor shall obtain, either itself or through the applicable Subcontractor(s) in use of drone(s)/Unmanned Aerial Vehicle(s) (UAV(s)) in the performance of their Work, separate Unmanned Aircraft System (UAS) insurance. CM/Contractor and/or Subcontractor shall maintain and show evidence of coverage pursuant to this Article 11.1.10.1.7 while Work involving drone(s)/UAV(s) is being completed. The insurance required by this paragraph shall be (i) issued by companies with a Best rating of A- or better, and a financial classification of VIII

or better (or an equivalent rating by Standard & Poor's or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor's or Moody's).

CM/Contractor and/or Subcontractor in use of a drone/UAV in the performance of their Work shall meet all FAA requirements for certification and comply with all FAA rules for operation of the drone/UAV and any established University policy relating to operation of unmanned aircraft systems at University location.

Such UAV Liability coverage as provided by a UAS insurance policy shall be written for not less than the following minimum limits:

<u>UAV / UAS Insurance –Limits of Liability</u>	<u>Minimum Requirements</u>
Per Occurrence .....	\$1,000,000
Annual Aggregate .....	\$1,000,000

Such UAS insurance policy must include coverage for Bodily Injury (Liability), Property Damage (Liability) and Physical Damage to the UAV and support systems. Contractor and/or Subcontractor shall be required to also show evidence of the following under its UAS policy:

Such UAS insurance shall, by endorsement to the policies, also include the following:

- .1 The Regents of the University of California and each of their Representatives, consultants, officers, agents, employees, and each of their Representative's consultants shall be included as additional insureds on a primary non-contributory basis.
- .2 As to all liability insurance policies, each shall include a waiver of subrogation endorsement evidencing that the CM/Contractor and/or Subcontractor waives all rights of recovery by subrogation against University, University's Representative, University's Representative's consultants, their respective officers, agents, or employees.
- .3 If insurance policy providing coverage requires that each UAV be scheduled, the CM/Contractor and/or Subcontractor shall meet all reporting requirements of the insurance company to schedule insurance for the actual unit (drone/UAV) in use in the performance of their Work.

**6. MODIFICATION OF GENERAL CONDITIONS, ARTICLE 14 – STATUTORY AND OTHER REQUIREMENTS**

The following new Subparagraph 14.4.4 is added to Article 14.4:

- 14.4.4 CM/Contractor and every Subcontractor required to submit certified payrolls shall use the web-based electronic certified payroll reporting (eCPR) system to be named by University. The software shall be a web-based eCPR system accessed by a web browser. CM/Contractor and each Subcontractor will be furnished a log-on identification and password to access University's reporting system. Use of the system may entail additional data entry of weekly payroll information including, without limitation: employee identification, labor classification, total hours worked and hours worked on the project, wage and benefit rates paid, etc. The required software shall be used regardless of the ability to interface with CM/Contractor's or Subcontractor's payroll and accounting software or system. On-line training in the use of the system will be available via the Internet. University may elect to schedule training classes in the use of the software and CM/Contractor shall have all necessary personnel attend and shall require attendance by all Subcontractors.

END OF SUPPLEMENTARY CONDITIONS

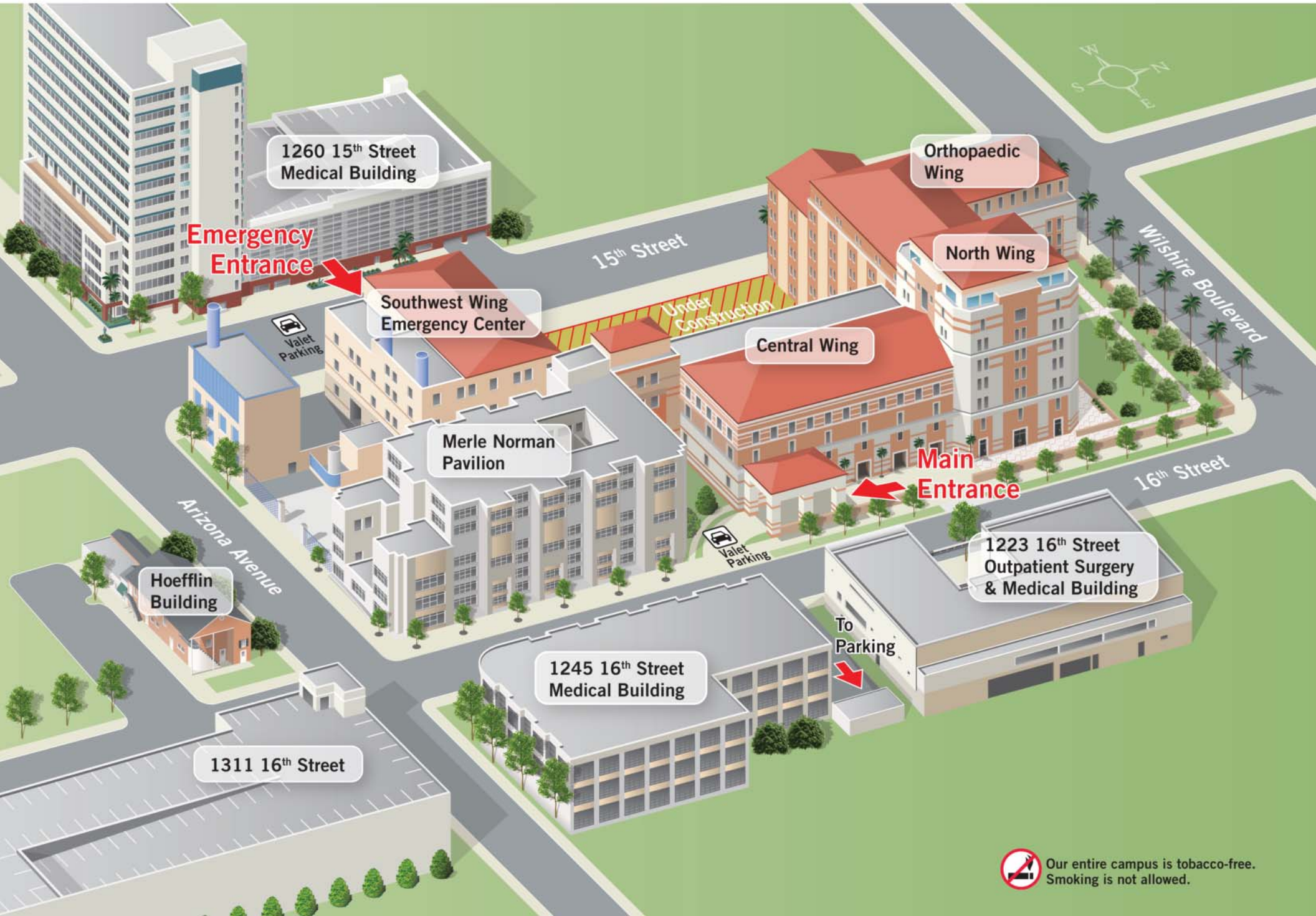
## EXECUTIVE DESIGN PROFESSIONAL/ FEE GUIDELINE: ATTACHMENT H

The following is a guideline for determining a UC average fee for complete Basic Services:

<b>General Building Category</b>	<b>Fee for New Construction Computation Formula<sup>1</sup> for any construction \$ value (c )</b>
1. wet laboratory, hospital	$32/\log\left(\frac{c}{1000}\right)$
2. dry laboratory, performing arts, clinic	$30/\log\left(\frac{c}{1000}\right)$
3. classroom/office, library, gymnasium	$28/\log\left(\frac{c}{1000}\right)$
4. multiple housing, service shop	$26/\log\left(\frac{c}{1000}\right)$
5. parking structure, utility building	$24/\log\left(\frac{c}{1000}\right)$

<sup>1</sup> This fee computation formula may be used to determine a fee % for any construction dollar value commensurate with the averages shown (for new construction); for renovation work add 2% of construction value to this calculation, e.g. –

$$32/\log\left(\frac{c}{1000}\right) + 2.0$$



1260 15<sup>th</sup> Street  
Medical Building

**Emergency  
Entrance**

Southwest Wing  
Emergency Center

15<sup>th</sup> Street

Orthopaedic  
Wing

North Wing

Under  
Construction

Central Wing

**Main  
Entrance**

Wilshire Boulevard

Merle Norman  
Pavilion

16<sup>th</sup> Street

Arizona Avenue

Hoefflin  
Building

1223 16<sup>th</sup> Street  
Outpatient Surgery  
& Medical Building

Valet  
Parking

To  
Parking

1245 16<sup>th</sup> Street  
Medical Building

1311 16<sup>th</sup> Street