

**Monterey Peninsula Community College District
April 5, 2021**

**REQUEST FOR PROPOSALS (RFP)
MEASURE V BUILDING PROGRAM MANAGER
RFP NUMBER 2021-01**

Mandatory Pre-Proposal Virtual Conference
Monday, April 12, 2021
9:00 AM

Pre-Proposal Conference Zoom Link: To be sent upon request

Monterey Peninsula College
980 Fremont Street
Monterey, California 93940

Proposal Submittal Deadline
Monday, April 19, 2021
1:00 PM

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**REQUEST FOR PROPOSALS NO. 2021-01
MEASURE V BUILDING PROGRAM MANAGER**

Monterey Peninsula Community College District (“District”) requests that qualified, skilled and experienced program management firms submit proposals in response to this RFP for Program Management services.

1. RFP AND PURPOSE OF RFP

1.1. Introduction. The District seeks proposals from qualified firms to serve as the District’s Program Manager (PM) in connection with projects funded in whole or in part with proceeds from District’s Measure V general obligation bonds (“Building Program”). PM will be responsible for establishing an organizational structure for the District’s Building Program; development of budgets, schedules and procedures for implementing projects; and other general support necessary to develop an organizational structure and procedures to implement the Building Program.

1.1.1. District Expectations. It is essential for the PM selected to recognize the need to preserve the collegial and participative culture of the community college environment while effectively and efficiently completing Building Program Projects. It is critical that the PM successfully blends the authority delegated to the PM by the District with the District’s non-delegable responsibilities to form a cohesive and effective working relationship so that the Building Program is completed within the District’s scope, budget and schedule objectives. This RFP describes the PM scope of services, format and required contents of each Proposal responding to this RFP and the PM selection process. Each Proposal shall include a description of the type, technical experience, background, qualifications and expertise of the Proposer’s firm and the proposed PM Team. The description shall show that the Proposer and its proposed PM Team possess demonstrated skills and professional experience to complete PM services and to fulfill the goals and vision of the District for the Building Program. Proposals shall demonstrate the Proposer’s ability to participate in constructive and effective partnerships with the District and others engaged by the District for planning, design or construction of the Building Program Projects.

1.1.2. Proposer Qualifications. Each firm responding to this RFP must demonstrate: (i) capacity and capability of the Proposer to complete PM services; (ii) experience, expertise, skills and other qualifications of the proposed PM Team to complete PM services; and (iii) compliance with minimum requirements/qualifications established in this RFP. Proposers are advised that there are essential minimum qualification requirements which must be met by a Proposer; the Proposal of a Proposer who does not meet essential minimum qualifications will be rejected for non-responsiveness. Essential minimum qualifications include: (i) evidence of the Proposer’s prior experience (within the past five (5) years) in successfully providing services to a California community college district similar to the PM services described in the PM Agreement for a building program similar in scope and value to the District’s Building Program and (ii) evidence that the on-site lead person of the Proposer’s PM Teams have successfully provided services to a California community college district similar to the PM services described in the PM Agreement for a building program similar in scope and value to the District’s Building Program.

1.1.3. Education Master Plan and Facilities and Technology Master Plan. The Building Program must develop projects which implement the District’s Education Master Plan and Facilities/Technology Master Plan (“Master Plan”). The Education Master Plan can be accessed at <https://www.mpc.edu/Home/ShowDocument?id=37138>. The Facilities and Technology Master Plan can be accessed at <https://www.mpc.edu/home/showdocument?id=37888>. All Proposers responding to

this RFP are expected to access the Master Plans and to become familiar with Projects and the recommended phased development and completion of Projects identified in the Master Plans.

- 1.2. The District. The District operates Monterey Peninsula College (“MPC”), a public, two-year community college providing educational programs and services to approximately 13,000 students annually at the MPC campus, MPC Education Center at Marina, Public Safety Training Center (PSTC) in Seaside, and off-campus locations. The College is accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (ACCJC), an institutional accrediting body recognized by the Council for Higher Education Accreditation (CHEA) and the U.S. Department of Education. MPC serves the communities of Big Sur, Carmel, Carmel Valley, Del Rey Oaks, Marina, Monterey, Pacific Grove, Pebble Beach, Presidio of Monterey Annex, Sand City, and Seaside.

MPC commenced its operation in September 1947, on the campus of Monterey High School. While operating at Monterey High School, 97 acres of land on Fremont Street was acquired. Using converted barracks buildings, MPC started at the new Fremont Street site in September 1948, with 280 students and 20 faculty members. The MPC campus was originally designed for approximately 1,000 students, but by 1957, enrollment success required further campus development. Over the years, the MPC campus has been improved to meet student enrollment and evolving curriculum needs by constructing new facilities, upgrading/renovating existing facilities and enhancing infrastructure support to meet the District’s education mission.

In addition to the MPC campus, the District operates facilities in Marina and Seaside. The MPC Education Center at Marina provides convenient, localized general education services for residents of the communities in the northern portion of the District’s service area. The Public Safety Training Center in Seaside includes a Fire and Police Academy.

- 1.3. Measure V Building Program.

1.3.1. Measure V Projects. The District has enjoyed tremendous support from its constituents. In November 2002, voters approved a \$145 million bond for facilities, infrastructure, and equipment at MPC. Funds from the bond used to support the programmatic needs described in the College’s Educational/Facilities Master Plan, including development of the MPC Education Center at Marina located in the former Fort Ord. In November 2020, voters approved Measure V, a \$230 Million general obligation for improvements to District facilities. The Projects subject to Measure V funding are generally described in the District’s Board of Trustees Resolution authorizing Measure V:

[https://go.boarddocs.com/ca/mpc/Board.nsf/files/BRS35U0539CD/\\$file/Resolution%20Ordering%20Election%20-%20MPC%20November%202020.pdf](https://go.boarddocs.com/ca/mpc/Board.nsf/files/BRS35U0539CD/$file/Resolution%20Ordering%20Election%20-%20MPC%20November%202020.pdf)

1.3.2. Capital Projects List. The District has completed preliminary evaluation of Projects to achieve District facilities, Education Master Plan and other defined objectives. The Project List included as Attachment A hereto is a summary of the preliminary Projects evaluation and objectives achieved with each Project.

2. **PM Services**. The following provide an overview of the scope and nature of PM Services to be completed by the successful Proposer and the provisions of the PM Agreement relating to the duration of the PM Agreement and compensation for completing PM Services.

2.1. PM Services Overview. PM Services consist of services relating to the Building Program and the Projects included within the Building Program. The following provide an overview of PM Services for the Building Program and the Projects. The following does not modify

the scope of services required of PM which is more specifically described in the PM Agreement incorporated into this RFP as Attachment D.

2.1.1. PM Services. The following summary of PM Services the District anticipates will be completed under the PM Agreement is provided for convenience of reference only. Specific services and obligations of the Proposer awarded the PM Agreement will be as set forth in the PM Agreement awarded by the District's Board of Trustees.

2.1.1.1. Implementation Plan. Develop a comprehensive Implementation Plan (IP), in conjunction and in coordination with the District's Facilities Master Plan, Education Master Plan, Technology Plan and Sustainability Plan to manage all of the facets of the Building Program. The IP will subject to continuous review and periodic updating. The selected firm will develop comprehensive control systems to manage scopes, budgets and schedules of Building Program projects. Develop organizational/reporting structures and procedures for District personnel, personnel of the PM and personnel of the professional and construction service providers.

2.1.1.2. Building Program Budgets/Schedules. Develop integrated budget/cost and schedule management systems designed to meet Building Program objectives and to keep the District informed of Building Program status. Establish budgets/schedules for Building Program projects.

2.1.1.3. Cash Flow Schedules. Develop and maintain cost management system, including cash flow schedule to ensure the timely spend-down of Measure V funds and the timely issuance of Measure V bonds to fund the Building Program projects.

2.1.1.4. Building Program Records. Develop systematic processes for organizing, maintaining and cataloguing Building Program design and construction and records.

2.1.1.5. Building Program Projects. Assist in developing measures to mitigate cost overruns, completion delays, interim housing costs and other similar matters for Building Program projects. Provide project management assistance as requested or required.

2.1.1.6. Bidding and Procurement Procedures. Assist the District in development of standardized procedures for procurement of professional and construction services necessary to complete Building Program projects. Provide advice for alternative means to design/construct Building Program projects, including utilization of alternative delivery methods.

2.1.1.7. Labor Relations. Assist the District in complying with Labor Code requirements for Building Program projects. Develop procedures to mitigate potential labor disruptions during construction of Building Program projects.

2.1.1.8. Measure V; Building Program Communications. Develop and implement comprehensive communication strategy to keep all District stakeholders informed of the Building Program projects planning and status, including District Administration, the Board of Trustees, the Citizens Oversight Committee. Maintain and update Measure V/Building Program website.

2.2. PM Agreement. RFP Attachment C is a form of the PM Agreement that the District anticipates entering into with the successful Proposer. All Proposers shall carefully review the entirety of the PM Agreement. Each Proposer must indicate in its response to this RFP whether the Proposer accepts the terms and conditions of the PM Agreement or whether the Proposer requests modifications to the terms and conditions of the PM Agreement. If

a Proposer requests modification to the PM Agreement, in its response to this RFP, such Proposer must identify the specific provisions of the PM Agreement for which modifications are requested and the specific modifications requested. Provisions of the PM Agreement marked “Reserved” will be completed prior to award of the PM Agreement based on the Proposal of the successful Proposer, as modified and accepted by the District.

- 2.3. Term of PM Agreement. The District anticipates that the Initial Term of the PM will be for three (3) years with two (2) renewal options of one (1) year each, should the District, at its sole discretion, exercise the option to renew the Term of the PM Agreement. It is the intent of the District to enter into a long-term, mutually beneficial relationship for the PM Services. In addition, the District’s expectations are clear with respect to its need to reserve the right to terminate this contract, without cause, at any time at the discretion of the District. The District shall, at its sole discretion, perform annual reviews of the PM Services. Further details of the District’s termination rights and financial payment for services rendered prior to termination of the PM Agreement will be as set forth in the PM Agreement; however, financial payment upon termination will NOT include payments for items such as mobilization costs, set-up fees, etc.
- 2.4. PM Compensation. Based on the Fee Proposal of the successful Proposer and subject to modifications thereto mutually agreed to by such Proposer and the District, the District anticipates that the PM Agreement will establish a lump sum, not to exceed amount for completion of PM Services. The District anticipates monthly disbursements of compensation to the successful Proposer based on PM Services completed.

3. RFP REQUIREMENTS AND RFP PROCESS

- 3.1. Anticipated RFP Schedule. The District anticipates a series of principal activities to complete the RFP process for selection of the PM as noted below. Notwithstanding the following description of principal activities and the anticipated dates for completing the principal activities, the District expressly reserves the right to modify the RFP activities and/or the date for completion of any RFP activity.

RFP Activity	Date
District issuance of RFP	Tuesday, April 6, 2021
Mandatory virtual pre-proposal conference	Monday, April 12, 2021 9:00 AM
Deadline for submittal of Proposer questions	Thursday, April 15, 2021 4:00 PM
Deadline for receipt of Proposals	Monday, April 19, 2021 1:00 PM
District review of Proposals (begins)	Monday, April 19, 2021
District Short-List notification	Monday, April 26, 2021
Short-List Interviews	Monday, May 3, 2021
Board of Trustees meeting to consider award of PM Agreement	Wednesday, May 26, 2021

- 3.2. Mandatory Virtual Pre-Proposal Conference.

- 3.2.1. Mandatory Virtual Attendance; Proposer Principal Contact Attendance. The representatives of each Proposer are required to attend the entirety of the Pre-Proposal Conference. Each Proposer may have such representatives present at the Pre-Proposal meeting as determined in the discretion of each Proposer, but each

Proposer must have present at the entirety of the Pre-Proposal Meeting the Proposer's Principal Contact, as noted in the Proposer's response to Paragraph 1.3.1 of the Statement of Qualifications. The Proposal of a Proposer whose Principal Contact did not attend the entire Pre-Proposal Meeting will be rejected for non-responsiveness.

3.2.2. Scope of Pre-Proposal Meeting. The purpose of the Pre-Proposal Meeting is to review the RFP process, describe the scope of services to be completed by the PM and the District expectations of the PM. At the Pre-Proposal Meeting, the District will provide an overview of the objectives of Measure V, the Master Plans and the status of the implementation planning for Projects identified and described in the Master Plans.

3.3. Proposer Questions. A Proposer must email questions regarding the RFP on or before 4 P.M., April 15, 2021, to Steven Haigler, VP Administrative Services, shaigler@mpc.edu. The District will not respond to questions submitted thereafter.

3.4. Proposer Responsibilities.

3.4.1. Costs. All costs and expenses to prepare and submit a Proposal responding to this RFP and all other activities related to this RFP shall be borne solely and exclusively by the Proposer.

3.4.2. Preparation of Proposal. Proposals shall be prepared in such a way as to provide a straightforward, concise delineation of capabilities of the Proposer and the Proposer's PM Team to satisfy the requirements of this RFP, and to successfully perform and complete the PM services. Expensive bindings, promotional materials, etc. are not necessary or desired. Nevertheless, technical materials which support the Proposer's approach and work plan for completing PM services should be incorporated into the Proposer's Proposal.

3.4.3. Timely Submittal of Proposals. **The latest date/time for submission of Proposals is set forth in Paragraph 3.1.** A Proposal which is not actually received by the District's Vice President, Administrative Services at or prior to the latest date/time for submission of Proposals will be rejected by the District for non-responsiveness. Proposers are solely responsible for the timely submission of Proposals. ***Proposals must be submitted electronically in digital format by email to the District's Vice President, Administrative Service. Proposers are solely responsible for: (i) electronic transmittal of Proposals and (ii) complete and accurate transmittal of the entirety of Proposals. The District is not responsible for delays or inaccuracies in submitted Proposals resulting from any cause, including without limitation: (i) internet service hindrances or interruptions; (ii) Proposer or Proposer's internet service provider server malfunction; or (iii) District email server malfunction not caused by the District.***

3.4.4. Compliance with RFP Requirements. Proposers and Proposals responding to this RFP must comply with requirements established in this RFP. Failure of a Proposal to comply with requirements of this RFP will render the Proposal non-responsive and rejected.

3.4.5. Alternative or Multiple Proposals Prohibited. Only one (1) Proposal is to be submitted by each Proposer. Multiple Proposals or alternative Proposals submitted by a Proposer will result in rejection of all Proposals submitted by the Proposer.

3.4.6. Prohibitions on Lobbying and Contacts. During the period beginning on the date of the issuance of this RFP and ending on the date of the award of the PM Agreement, no Proposer nor any officer, employee, representative, agent, or consultant

representing such a Proposer shall contact through any means or engage in any discussion regarding this RFP, the evaluation or selection process, or the award of the PM Agreement with any employee of the District, member of the District's Board of Trustees, or any member of the Citizens' Bond Oversight Committee, outside from contract authorized by this RFP. Any other contact shall be grounds for the disqualification of the Proposer and rejection of the Proposer's Proposal.

3.5. Proposer Withdrawal of Submitted Proposals. Proposals submitted to the District may be withdrawn by the Proposer only if the Proposer submits a written request to the District's Vice President, Administrative Services and such withdrawal request is actually received by the District's Vice President, Administrative Services before the latest date and time for submittal of Proposals. A Proposal withdrawn by a Proposer pursuant to the foregoing may be resubmitted before the Proposal submission deadline. Withdrawal or modifications offered in any other manner will not be considered.

3.6. Proposer Insurance.

3.6.1. Insurance Policies and Minimum Coverage. The successful Proposer will be required to obtain and maintain the policies of insurance described in the PM Agreement. Each Proposal must be submitted with evidence of the Proposer's insurance in Tab 5 of each Proposal.

3.6.2. Commercial General Liability Insurance Requirements. Commercial General Liability Insurance obtained by a Proposer shall be at least as broad as Insurance Services Office General Liability Coverage (Occurrence Form CG 0001). Minimum coverage limits shall be two million dollars (\$2,000,000) per occurrence for bodily injury personal injury and property damage and four million dollars (\$4,000,000) in the aggregate.

3.6.3. Automobile Liability Insurance. Automobile liability insurance shall be at least as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto), with coverage limits of at least two million dollars (\$2,000,000) for bodily injury and property damage each accident.

3.6.4. Workers' Compensation and Employer's Liability Insurance. The Proposer shall insure (or be a qualified self-insured) under the applicable laws relating to workers' compensation insurance, all of their employees in accordance with the "Workers' Compensation and Insurance Act", Division IV of the Labor Code of the State of California and any Acts amendatory thereof. The Proposer shall maintain as an endorsement to the Workers' Compensation insurance policy or as a separate policy, Employer's Liability insurance in the amount of at least one million dollars (\$1,000,000) per accident for bodily injury and disease.

3.6.5. Professional Liability Insurance (Errors and Omissions). The Proposer shall maintain professional liability insurance covering the risk of loss resulting from the Proposer's performance of services under the PM Agreement with coverage limits of at least two million dollars (\$2,000,000) per claim and four million dollars (\$4,000,000) in the aggregate.

3.6.6. Required Insurer Qualifications. All insurance obtained by a Proposer must be: (i) issued by insurance companies acceptable to the District and licensed by the California Department of Insurance; (ii) be currently A. M. Best rated not less than A:XV; and (iii) issued by an insurer qualified to transact business in California as an insurer and who maintains an agent for service of process within the State of California.

3.6.7. Required Insurance Policy Provisions. All insurance policies obtained by a Proposer shall include or incorporate provisions to the effect that: (i) the insurance coverage shall not be cancelled, modified or reduced by the insurer without at least thirty (30) days prior written notice to the District; (ii) the District is an additional insured (except for the Workers Compensation and Professional Liability policies); and (iii) waivers of subrogation.

3.7. District Reservation of Rights. The District reserves rights to each and all of the following:

3.7.1. Modifications to RFP. The District may revise the RFP or any portion hereof. Revisions to the RFP shall be by Addenda distributed by email to all Principal Contacts who attends the Pre-Proposal Conference. The District expressly reserves the right to extend the date by which Proposals are due. If the District modifies this RFP or issues any Addenda to this RFP, each Proposal must acknowledge receipt and incorporation into the Proposal the substance of each Addenda issued by the District.

3.7.2. Additional or Supplemental Information. Upon review of a Proposal, the District may request additional or supplemental information which, in the judgment of the District, is necessary to evaluate a Proposal. If a Proposer is requested by the District to provide additional or supplemental information, failure of a Proposer to submit such additional supplemental information as requested by the District and within the time established by the District may result in the Proposal being rejected for non-responsiveness.

3.7.3. Waiver of Minor Irregularities. The District may waive minor deviations, irregularities or informalities in any Proposal submitted in response to this RFP. The District's waiver pursuant to the foregoing shall in no way modify the RFP or excuse a Proposer from compliance with the other provisions of this RFP.

3.7.4. Rejection of Proposal for Non-Responsiveness. The District may reject a Proposal for non-responsiveness if the Proposal: (i) is not responsive to the Proposal requirements set forth in this RFP; (ii) is incomplete or otherwise fails to fully respond to this RFP; (iii) incorporates false or misleading information; or (iv) omits information rendering a response to be false or misleading. In addition, the District may reject a Proposal if the Proposal fails to demonstrate to the reasonable satisfaction of the District that the prior experiences of the Proposer and the proposed PM Team has: (i) skills and experience to successfully complete the PM Services; (ii) experience with California community college building program(s); and (iii) experience with construction projects subject to DSA jurisdiction.

3.7.5. Rejection of All Proposals. The District may reject all Proposals and decline to award the PM Agreement pursuant to this RFP. If the District rejects all Proposals, the District may, in its sole discretion, elect to subsequently re-issue a Request for Proposals for the same or similar services to the PM services described in the PM Agreement.

3.7.6. Cancellation of RFP. The District may, at any time, cancel this RFP. In such event, the District will provide written cancellation notice to all Proposers attending the Pre-Proposal Conference.

3.7.7. Negotiations and Discussions. The District expressly reserves the right to conduct negotiations and discussions with Proposers concerning their responsive RFP Proposals. Such negotiations and discussions, if conducted by the District shall be conducted in a fair and impartial manner. The nature and scope of the District's negotiations/discussions with Proposers may include identical areas of inquiry for all Proposers, or differing areas of inquiry for different Proposers. The District shall have

the sole discretion to establish the nature and scope of negotiations/discussions with a Proposer based on the District's review of the Proposer's Proposal and the areas or subject matters reflected in the Proposal that the District believes warrants additional discussion or negotiation with the Proposer.

- 3.7.8. Award of PM Agreement. The District reserves the right to contract for PM services in the manner that most benefits the District, including awarding more than one contract if desired.

3.8. Disposition of Proposals.

- 3.8.1. District Property. Proposals become the property of the District upon submittal to the District; Proposals may be returned to the Proposer only at the District's option and at the Proposer's expense.

- 3.8.2. Public Records. Upon submission to the District, Proposals and other documents responding to the RFP are considered public records, except for information contained in such Proposals or other documents submitted with the Proposal deemed to be "Trade Secrets" (as defined in California Civil Code §3426.1), "Confidential" or "Proprietary". A Proposer who indiscriminately marks all or most of its Proposal or other documents submitted with its Proposal as exempt from disclosure as a public record, whether by the notations of "Trade Secret", "Confidential," "Proprietary," or otherwise, may render the Proposal non-responsive and rejected. Financial statements and other information relating to the financial condition of a Proposer are deemed confidential information not subject to disclosure. The District is not liable nor responsible for the disclosure of such records, including those exempt from disclosure if disclosure is deemed required by law, by an order of Court, or which occurs through inadvertence, mistake or negligence on the part of the District or its officers, employees or agents. At such time as Proposals and other documents are deemed matters of public record, pursuant to the above, any party shall be afforded access thereto for inspection and/or copying, by request made to the District in conformity with the California Access to Public Records Act, California Government Code §§6250, et. seq. If the District is required to defend or otherwise respond to any action or proceeding wherein request is made for the disclosure of the contents of any portion of a Proposal or documents submitted with a Proposal deemed exempt from disclosure hereunder, the Proposer submitting the materials sought by such action or proceeding agrees to defend, indemnify and hold harmless the District and its Board of Trustees, employees, officers and agents in any action or proceeding from and against any liability, including without limitation attorneys' fees arising there from. The party submitting materials sought by any other party shall be solely responsible for the cost and defense in any action or proceeding seeking to compel disclosure of such materials; the District's sole involvement in any such action shall be that of a stakeholder, retaining the requested materials until otherwise ordered by a court of competent jurisdiction.

4. RFP Submittal Requirements

- 4.1. Submittal Time for Proposals. The latest date/time for submittal of Proposals responding to this RFP is 1:00 P.M., April 19 2021. Proposals submitted thereafter will be summarily rejected for non-responsiveness.
- 4.2. Proposal Submittal. Proposals must be submitted by email as set forth in Paragraph 3.4.3 above. ***The Cover Letter (see Paragraph 4.3.1 below) must be submitted as an attachment with the Proposer's email submitting its Proposal. All other portions of the Proposal may be submitted by link included in the email to a cloud-based file hosting service. Upon request of the District, Proposers shall submit the Proposal in hard copy***

form with original “wet” signatures where required in the RFP. Failure of a Proposer to submit its hard copy original Proposal as requested by the District will result in rejection of the Proposal for non-responsiveness.

- 4.3. Proposal Contents and Format. Each Proposal shall be submitted with the following contents, in the order and format described below.
- 4.3.1. Cover Letter. A brief statement of interest in the RFP and providing the PM services.
- 4.3.2. Table of Contents. A table of contents identifying the various sections of the Proposal.
- 4.3.3. Tab 1; Statement of Qualifications. A completed and executed copy of the Statement of Qualifications incorporated into this RFP as Attachment C.
- 4.3.4. Tab 2; Financial Condition.
- 4.3.4.1. Tab 2A; Reviewed or Audited Financial Statement. Attach a copy of the Proposer’s 2020 calendar year or 2019/2020 fiscal year financial statement. The financial statement must be inclusive of all notes and must be either audited or reviewed by a California licensed CPA.
- 4.3.4.2. Tab 2B; Credit Rating; Line of Credit. Attach a copy of: (i) a current credit rating report of the Proposer (dated not more than thirty (30) days prior to the date of submittal of the Proposal) issued by Dunn & Bradstreet or Experian; or (ii) a financial institution letter (dated not more than thirty (30) days prior to the date of submittal of the Proposal) stating the Proposer’s available line of credit.
- 4.3.5. Tab 3; Proposed PM Team.
- 4.3.5.1. Tab 3A; Organizational Structure. Identify the proposed PM Team by name, title/position and description of PM services to be completed by each PM Team member. Provide separate organization charts illustrating the relationships and organizational structure of: (i) the PM Team members and (ii) between the proposed PM Team and District personnel, including the District’s President, Vice President Administrative Services, Board of Trustees and Director, Facilities.
- 4.3.5.2. Tab 3B; PM Team Resumes. Provide resumes for each proposed PM Team member, except for those whose responsibilities are exclusively limited to clerical or administrative tasks. Each resume must include: (i) relevant experience and skills to perform and complete the PM tasks assigned a PM Team member; (ii) length of employment with the Proposer; (iii) relevant licenses or certifications; and (iv) references.
- 4.3.5.3. Tab 3C; Discussion. Describe how the experience, technical and professional skills of the proposed PM Team will meet the goals and complete the PM tasks described in this RFP, the Pre-Proposal Meeting and in the PM Agreement.
- 4.3.6. Tab 4; Proposed Work Plan. Provide a work plan which demonstrates the Proposer’s: (i) understanding of Measure V objectives; (ii) the Master Plans and the Projects included therein; (iii) and the skills, experience and qualifications of the Proposer to efficiency and economically complete PM tasks so that planning, design and/or construction of Projects is completed in accordance with the District’s time requirements. Materials may be in the form of text, graphics or combination thereof. Proposers shall not submit a work plan or schedule which is generic in nature without reference to specific Projects identified in the Master Plans. Compliance with the requirements of this portion of the RFP requires a detailed work plan and schedule which specially addresses the Projects identified in the Master Plans.

- 4.3.6.1. Tab 4A; Initial Plan. Provide a detailed description of the Proposer's work plan for completing the PM services during the first twenty-four (24) months of the Initial Term of the PM Agreement ("Initial Plan"). The Initial Plan must incorporate at least the following: (i) PM services or activities; (ii) anticipated manpower resources to complete identified PM services or activities (identify manpower resources by name and title or position); and (iii) initial sequencing of the Projects identified in the Master Plans.
- 4.3.6.2. Tab 4B; Schedule. Provide a draft schedule for the first twelve (12) months of the Initial Term of the PM Agreement identifying: (i) PM tasks and services; (ii) milestones; and (iii) PM deliverables.
- 4.3.7. Tab 5; Certificates of Insurance. Provide copies of Certificates of Insurance evidencing compliance with insurance requirements set forth in Paragraph 3.6 of this RFP.
- 4.3.8. Tab 6; Fee Proposal. The completed and executed form of Fee Proposal included with this RFP as Attachment D. The District anticipates and expects that the pricing set forth in the Fee Proposal is inclusive of all costs and expenses to perform and complete the PM services, including all general administrative overhead costs, labor burdens and benefits and profit. The District further anticipates and expects that the pricing proposed in the Fee Proposal excludes any other compensation to the Proposer for completing the PM services. The foregoing notwithstanding, if the pricing proposed by a Proposer in the Fee Proposal is subject to qualifications or conditions, all such qualifications or conditions must be detailed in an attachment to the Fee Proposal.

5. District Review and Evaluation of Proposals; Award of PM Agreement

- 5.1. General. Timely submitted Proposals will be independently. The Process will involve an initial review of proposals together with the interviews scored by the selection committee.
- 5.2. District Intent and Policy. It is the District's intent to select a firm best evidencing demonstrated competence and professional qualifications to perform and complete the PM services at a fair and reasonable price to the District. The PM will be selected on the basis of information provided in the Proposal responding to this RFP, any interviews, and the results of the District's independent research and investigation. It is the policy of the District that the selection of firms to provide professional services in connection with construction projects of the District be based on the demonstrated competence and qualifications to complete the required professional services at a fair and reasonable price to the District.
- 5.3. Initial Evaluation Criteria. The following set forth the criteria by which each Proposal will be initially evaluated. The District and the Selection Committee reserve the right to exercise discretion in the weight and priority of the evaluation criteria.
 - 5.3.1. Relevant Experience and Ability (30 points). The District will evaluate the prior experience and success of the Proposer and its proposed PM Teams in completing services similar to the PM services for a building program similar to Measure V. Evaluation factors includes evidence of prior experience in providing PM services for a building program and the completion of projects within a building program within established budgets and schedules which conform to programming requirements.
 - 5.3.2. Responsiveness to RFP (10 points). The District will evaluate responsiveness of a Proposal to the requirements of this RFP.
 - 5.3.3. Client Responsiveness (15 points). The Proposal, Proposer and proposed PM Teams will be evaluated for the ability to establish effective working relationships in the context of a public higher education institution with: (i) the management,

administrative, technical and end-user staff of prior clients; and (ii) others providing services to prior clients in connection with the planning, development, design and construction of construction projects.

5.3.4. Availability (15 points). The District will evaluate the availability and commitment of the Proposer’s proposed PM Teams for dedication to the District and the Building Program over the anticipated duration of PM Agreement Term.

5.3.5. Fee Proposal (20 points). The reasonableness, competitiveness and completeness of the Proposer’s Fee Proposal.

5.3.6. Acceptance of PM Agreement Terms (10 points). The extent and nature of the Proposer’s proposed modifications to the PM Agreement.

5.4. Short-List Interviews.

5.4.1. Selection. Upon completing the initial evaluations, the District anticipates that the three (3) Proposers submitting the highest scored Proposals based on the initial evaluation criteria will be requested to participate in an interview with the District (“Short-List Interview”). The District may, in the sole discretion of the District modify the number of Proposers invited to participate in the Short-List Interview or include a proposer in the Short-List Interviews who did not submit one of the three (3) highest scored Proposals based on the initial evaluation criteria.

5.4.2. Remote “Virtual” Short-List Interview. The Short-List Interview will be “virtually” conducted as a remote Zoom Meeting. Formal presentations (i.e., PowerPoint presentations) will not be permitted at the Short-List Interview. The primary purpose of the Short-List Interview is for Proposers to respond to questions posed by the District’s interview committee and to provide the Selection Committee with additional details of the relative benefits of the Proposer’s Proposal and approach to completing PM services. Attendance at the Short-List Interview is mandatory for: (i) the Proposer’s Principal Contact; and (ii) all members of the Proposer’s proposed PM Teams, except for personnel assigned exclusively to clerical or administrative tasks. Failure of a Proposer to attend the Short-List Interview with all personnel identified hereinabove will result in rejection of the Proposer’s Proposal for non-responsiveness.

5.4.3. Short-List Interview Evaluation Criteria. Proposers participating in the Short-List Interview will be evaluated based on the following criteria:

Evaluation Criteria	Maximum Score
Direct Responsiveness to Questions Posed	15
Communications/Interpersonal Skills	15
Firm Program Management Expertise, Experience and Skills	35
Proposed Project Management Team Cohesion; Community College Building Program Experience	35

5.5. Initial Evaluation and Short-List Interview Scoring. Scoring of Proposers participating in the Short-List Interview will be based on a combination of the Initial Evaluation and Short-List Interview scores, weighted as follows: Initial Evaluation: 60% and Short-List Interview Score: 40%.

5.6. Award of PM Agreement. Upon completing interviews of Proposers by the Selection Committee, the Selection Committee will make recommendations to the District’s Board of Trustees for award of the PM Agreement. The District anticipates that recommendation for award of the PM Agreement will be to the Proposer submitting the highest scored Proposal determined pursuant to Paragraph 5.5 above. The foregoing notwithstanding,

the District may recommend award of the PM Agreement, and the District's Board of Trustees may award the PM Agreement, to a Proposer who did not submit the highest scored Proposal so long as such action is supported by a reasonable basis of the exercise of such discretion. Notwithstanding any recommendations of the Selection Committee, action to award of the PM Agreement is vested solely in the Board of Trustees.

[END OF SECTION]

**Attachment A
CAPITAL PROJECT LIST (Draft)**

Project Description
ADA Accessibility
Adaptive PE Building
Admin Building
All Gender Facilities
Auto Technology Buildings
Baseball Field (concessions, entrance, lights, etc.)
Bridge renovations
Business, Mathematics, and Computer Building
Campus infrastructure- Walkways
Campuswide Storage
Computer Kiosks
Data Center/ERP/Data Security
Districtwide Building Security (locks, cameras, speakers, etc.)
Districtwide Signage
Districtwide Wifi
Facilities & LTC Roofs
Fitness Center Infrastructure (HVAC, plumbing, electrical, etc.)
Gym Entrance Area
Hospitality/FCS Building
HSS Building
I/C Building
Instructional Classroom Technology
Lecture Forum
Life Science Building
LTC 1st and Second floor renovation/ space utilization
Marina Education Center expansion
Music Building
Online Learning Lecture Recording Studios
Physical Science Building
PSTC
Social Science Building
Student Center Renovation
Sustainability Projects (EVC stations, solar panels, recycling center)
Tennis Court Renovation
Theater storage
Welcome Center/Student Services/General Classrooms

**RFP No.2021-01
Attachment B
Statement of Qualifications**

1. Contact Information

1.1. Proposer Firm Name. _____

1.2. Proposer's Form of Entity.

- Corporation
- Partnership
- LLC
- LLP
- Sole Proprietorship

1.3. Proposer's Contacts.

1.3.1. Principal Contact. Provide the following for the principal contact person of the Proposer's organization in connection with the RFP.

Name	
Street Address/City/State	
Phone/Fax	
Email Address	

1.3.2. Proposed PM Team Principal Contact. If the Proposer's Principal Contact, as identified in Paragraph 1.3.1 above is not a member of the Proposer's proposed PM Team as identified in Paragraph 2 below, provide the following for the principal contact person who is a member of the proposed PM Team.

Name	
Street Address/City/State	
Phone/Fax	
Email Address	

1.4. Proposer's Federal Employer Identification Number: _____

1.5. For Proposers That Are Corporations. If the Proposer conducts business as a corporation, complete the following:

1.5.1. Date incorporated: _____

1.5.2. State of incorporation: _____

1.5.3. California Corporation No. (if a California Corp): _____

1.5.4. Other State Corporation No. (if not incorporated in California): _____

1.5.5. Type of Corporation (Check One):

- C Corp
- S Corp
- LLC

1.5.6. Provide all the following information for each person who is either: an executive officer or, Board member of the corporation, or the owner of at least ten percent (10%) of the corporation's stock.

Name	Position/Title	% Ownership

1.6. For Proposers That Are Partnerships. If the Proposer conducts business as a partnership, complete the following:

1.6.1. Date of formation: _____

1.6.2. Formed under the laws of the State of: _____

1.6.3. Type of Partnership (Check One):

- General Partnership
- Limited Partnership
- LLP

1.6.4. Provide all the following information for each partner who owns 10 percent (10%) or more of the partnership equity.

Name	Position	Years with Co.	% Ownership

1.7. For Proposers That Are Sole Proprietorships. If the Proposer conducts business as a sole proprietorship, complete the following:

1.7.1. Date of commencement of business: _____

1.7.2. Name(s) of owner(s): _____

2. Proposed PM Team.

2.1. Subject to acceptance by the District, the Proposer proposes the following PM Team:

Name	Position/Title	PM Responsibilities	Years Employed by Proposer

2.2. On-Site PM Team Leader. _____ . The leader is the proposed PM Team member who will be primarily or exclusively on-site at MPC.

2.3. Licensed Contractor, Architect or Engineer. For each member of the proposed PM Team who is licensed as a contractor or architect or registered as an engineer under California law, complete the following; attach additional copies of the following as necessary to identify all members of the proposed PM Team who are licensed as a contractor or architect or registered as an engineer under California law.

Name	Licensing/Registration
	<input type="checkbox"/> Contractors' License Classification(s): _____ License No.: _____ Expiration Date: _____ <input type="checkbox"/> Licensed Architect License No.: _____ Expiration Date: _____ <input type="checkbox"/> Registered Engineer Engineer Discipline(s): _____ Registration No(s): _____ Expiration Date: _____
	<input type="checkbox"/> Contractors' License Classification(s): _____ License No.: _____ Expiration Date: _____ <input type="checkbox"/> Licensed Architect License No.: _____ Expiration Date: _____ <input type="checkbox"/> Registered Engineer Engineer Discipline(s): _____ Registration No(s): _____ Expiration Date: _____
	<input type="checkbox"/> Contractors' License Classification(s): _____ License No.: _____ Expiration Date: _____ <input type="checkbox"/> Licensed Architect License No.: _____ Expiration Date: _____ <input type="checkbox"/> Registered Engineer Engineer Discipline(s): _____ Registration No(s): _____ Expiration Date: _____

3. **References.** Provide a minimum of three (3) references for prior engagements of the Proposer by a California community college district, within the past five (5) years, to provide services similar to those described in the PM Agreement. For each reference identified below, on a separate attachment provide a description of the building program management services provided by the Proposer for each reference.

Owner References (California community college districts only)			
Owner Name	Contact Name	Contact Telephone No.	Contact Email Address

4. Proposer Experience.

- 4.1. Proposer’s PM Experience. The Proposer shall provide a description of the three (3) most relevant PM or similar professional services contracts held by the Proposer for California community colleges which includes: (i) description of the role of the Proposer; (ii) dollar value of the building program; (iii) dollar value of the compensation paid or due to be paid to the Proposer; (iv) building program description; (v) Proposer staffing resources; (vi) duration of Building Program; (vii) relationship of Proposer to owner; and (viii) contact name position, entity name, telephone number, facsimile number and email address for each contract. Limit the description of each contract to no more than one (1) page.
- 4.2. On-Site PM Team Leader. For the On-Site PM Team Leader identified in Paragraph 2.2 above, provide a description of each PM assignment completed by the proposed on-site PM Team Leader, including a description of the scope of services provided; projects completed and summary of completed projects relative to the original budgets and schedules for each project.
- 4.3. Chancellor’s Office Experience. Describe the experience of the Proposer and proposed PM Team members with respect to providing services related to a facility funded, in whole or in part, through the California Community College Chancellor’s Office (“CCCCO”). Include the name of the CCCCCO facilities specialist and identify the project.

5. Proposer Capacity.

- 5.1. Proposer Resources. Describe existing “in-house” resources (i.e. technology capabilities, software applications, modern protocol, modeling programs, etc.) of the Proposer and the use or application of such resources for completion of the PM services.
- 5.2. Staff Resources. Describe the extent of the Proposer’s existing “in-house” personnel possessing multi-disciplinary skills or experience and the ability of the Proposer to draw upon such resources to complete the PM services.
- 5.3. Professional Staff. Describe the number of professionals currently employed by the Proposer to provide services similar to the PM services. If the Proposer conducts business from multiple offices, provide separately the number of professionals employed in the office from which the PM services for the District will be completed and the number of professionals employed by the Proposer on a firm-wide basis.

6. Qualifications Questions. A “Not Qualified” response to any of the following will result in rejection of the Proposal for non-responsiveness.

- 6.1. Within the past five (5) years, has the Proposer been awarded a contract by a California community college district or K-12 district to provide services similar to those described in the PM Agreement for a building program.
 Yes No (Not Qualified)
- 6.2. Within the past five (5) years has the Proposer's proposed on-site PM Team Leader provided services similar to those described in the PM Agreement for a building program.
 Yes No (Not Qualified)
- 6.3. Is a copy of the Proposer's CY 2020 or 2019/2020 FY California CPA reviewed or audited financial statement with all accompanying notes and supplemental information included with the Proposal responding to the RFP?
 Yes No (Not Qualified)
- 6.4. Does the Proposal include copies of Certificates of Insurance issued by or on behalf of insurers authorized to issue insurance policies under California law: (i) Workers Compensation Insurance; (ii) Professional Liability Insurance; and (iii) Commercial General Liability Insurance, with coverage amounts conforming to those set forth in the RFP?
 Yes No (Not Qualified)
- 6.5. Has the Proposer or any predecessor to the Proposer, or any of its owners, officers, or partners ever been found liable in a civil suit, or found guilty in a criminal action, for making any **false claim or material misrepresentation** to any public agency or entity?
 Yes (Not Qualified) No
- 6.6. At any time during the last five (5) years, has the Proposer or any predecessor to the Proposer, or any of the Proposer's owners, officers or partners ever been **convicted of a crime** involving any federal, state, or local law related to design or construction of a project or related to construction/project/building management program services?
 Yes (Not Qualified) No
- 6.7. At any time during the last five (5) years, has the Proposer or any predecessor to the Proposer, or any of the Proposer's owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?
 Yes (Not Qualified) No
- 6.8. Is the Proposer currently the debtor in a bankruptcy/insolvency case under federal or state law?
 Yes (Not Qualified) No
- 6.9. In the last five (5) years, has the Proposer or any predecessor to the Proposer, been denied an award of a contract relating to any public project or public works based on a finding by a public agency that the Proposer was not a responsible bidder?
 Yes (Not Qualified) No
- 6.10. Within the last five (5) years, has there ever been a period when the Proposer had employees but was without workers' compensation insurance or state-approved self-insurance?
 Yes (Not Qualified) No
- 6.11. Has a contract or assignment relating to design or construction of a project or construction/project/building program management services to which the Proposer was a party been terminated for the Proposer's default?
 Yes (Not Qualified) No
- 6.12. Is the Proposer ineligible or debarred from submitting Bid Proposals for public works projects or public works contracts pursuant Labor Code §1777.1 or Labor Code §1777.7.

Yes (Not Qualified) No

7. General Questions. Complete each of the following General Questions. If a response to any General Question requires further details of the response, failure to provide the required further details will result in rejection of the Proposer's Proposal for non-responsiveness.

7.1. Within the past five (5) years, has the Proposer been subject to any judgment, settlement, or arbitration award(s) arising out of or related to construction/project/building program management services or the design or construction of a project?

Yes No

If yes, on a separate attachment, describe each such report including details of: (i) the parties to each judgment, settlement or arbitration; (ii) the amount paid by your firm for each judgment, settlement or arbitration award; and (iii) if your firm was subject one or more judgments, for each judgment identify the Court in which such judgments were entered, along with a case number relating to such judgment.

7.2. Has a claim been asserted against the Proposer's professional liability (errors and omissions) insurance policy in connection with construction/project/building program management services or design services within the past five (5) years?

Yes No

If yes, on a separate attachment, describe each such claim including details of: (i) the party making the claim; (ii) a description of the claim and (iii) the final disposition (or current status if the claim is not fully resolved) of the claim, including without limitation, a description of the manner in which the claim was resolved (i.e., by mutual agreement, mediation, judgment, etc) and the amounts paid to resolve the claim.

7.3. Has a contract or assignment relating to construction/project/building program management services to which the Proposer was a party been terminated for the convenience?

Yes No

If yes, on a separate attachment, describe each such termination, including: (i) the project owner contact information; (ii) the written termination notice; and (iii) whether after the termination was effectuated if the project owner contracted with a different firm to complete the construction/project/building program management services after termination.

7.4. Has any of the personnel identified in response to Questions 2.3 as a California licensed architect, within the past five (5) years submitted a report to the California Architects Board pursuant to Business & Professions Code §5588 notifying the California Architects Board of any civil action judgment, settlement, arbitration award, or administrative action resulting in a judgment, settlement, or arbitration award in an action alleging fraud, deceit, negligence, incompetence or recklessness where the amount of the judgment, settlement, or arbitration award exceeded \$5,000?

Yes No

If yes, on a separate attachment, describe each such report including details of: (i) the parties to each judgment, settlement or arbitration; (ii) the amount paid by or on behalf of such licensed architect for each judgment, settlement or arbitration award; and (iii) if the licensed architect was subject one or more judgments, for each judgment identify the Court in which such judgments were entered, along with a case number relating to such judgment and the date of the entry of judgment.

7.5. Has any of the personnel identified in response to Questions 2.3 as a California registered engineer, within the past five (5) years submitted a report to the California Engineer Board pursuant to Business & Professions Code §6770.2 notifying the California Engineer Board of

any civil action judgment, settlement or arbitration award at or exceeding Fifty Thousand Dollars (\$50,000)?

Yes No

If yes, on a separate attachment, describe each such report including details of: (i) the parties to each judgment, settlement or arbitration; (ii) the amount paid by or on behalf of such licensed architect for each judgment, settlement or arbitration award; and (iii) if the licensed architect was subject one or more judgments, for each judgment identify the Court in which such judgments were entered, along with a case number relating to such judgment and the date of the entry of judgment.

7.6. Has any of your firm's personnel identified in response to Questions 2.3 as a California licensed contractor, within the past five (5) years been subject to a complaint filed with the Contractors' State License Board ("CSLB") or been subject to disciplinary action imposed by the CSLB?

Yes No

If yes, on a separate attachment, identify such personnel and describe each such complaint or disciplinary action, including details of: (i) the parties; (ii) the substantive basis for each complaint filed with CSLB; and (iii) the disciplinary action imposed by the CSLB.

8. Certification

I, the undersigned, certify and declare that I have read all the foregoing answers to this Qualification Statement and know their contents. I am duly authorized and have the legal authority to bind the Proposer on whose behalf I am signing. The responses to this Qualifications Statement are: (i) true of my own knowledge and belief; (ii) complete and accurate; and (iii) do not omit any material facts which would render a response to be false or misleading.

Executed this ____ day of _____, 2021 at _____
(city and state)

I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

(Proposer Firm Name)

(Signature)

(Print Name)

(Title)

**RFP 2021-01
Attachment C
Fee Proposal**

PROPOSER: _____

The Proposer submits this Fee Proposal in connection with the Proposal submitted in response to RFP 2021-01. The Proposer understands and agrees that the Fee Proposal is not binding on the District or enforceable against the District unless the PM Agreement is awarded to the Proposer and this Fee Proposal, including modifications hereto mutually accepted by the District and the undersigned Proposer, is incorporated into the PM Agreement.

In submitting this Fee Proposal, the undersigned Proposer acknowledges that the proposed fee is inclusive of all costs, expenses, charges and other expenditures incurred or paid by the Proposer to complete the PM services. The fee proposal includes without limitation, personnel costs (inclusive of all benefits and labor burdens), all general administrative costs, all incidental costs and profit.

1. **Initial Term.** The Proposer proposes a not to exceed fee for the three (3) year Initial Term of the PM Agreement in the amount of _____ Dollars (\$_____).
2. **Proposed Year 4 Not to Exceed Fee.** A not to exceed amount of _____ Dollars (\$_____) is proposed for the fourth year of the PM Agreement if the District elects to renew the Term thereof.
3. **Proposed Year 5 Not to Exceed Fee.** A not to exceed amount of _____ Dollars (\$_____) is proposed for the fifth year of the PM Agreement if the District elects to renew the Term thereof.
4. **Hourly Rates.** The foregoing proposed fees incorporate the following hourly rates and anticipated adjustments thereto for the Proposer’s proposed PM Teams. Each member of the proposed PM Teams, identified in response to Paragraph 2 of the Statement of Qualifications must be identified below along with a proposed hourly rate.

Name/Title/Position	Current Proposed Hourly Rate	Proposed Hourly Rate by Year of PM Agreement			
		Year 2	Year 3	Year 4	Year 5

(Duplicate as necessary to identify hourly rates for each member of the Proposer’s PM Teams identified in the Proposer’s Statement of Qualifications)

5. **Qualifications or Conditions to Fee Proposal.** The foregoing fee proposal is subject to conditions or qualifications.
 Yes No

If the fee proposal is subject to conditions or qualifications, all conditions or qualifications must be set forth in an attachment to this Fee Proposal.

6. **Addenda.** The Proposer acknowledges receipt of Addenda to the RFP issued by the District and incorporation of matters noted in Addenda in the Proposal and this Fee Proposal. The Proposer

has received and incorporated the following Addenda into the Proposal and this Fee Proposal:

_____.

7. **Authority.** The undersigned has reviewed and confirmed the completeness and accuracy of the foregoing. The undersigned is authorized to execute this Fee Proposal on behalf of the Proposer; the undersigned is authorized to bind and commit the Proposer to the foregoing.

Executed this ____ day of _____, 2021 at _____
(city and state)

(Proposer Firm Name)

(Signature)

(Print Name)

(Title)

AGREEMENT FOR BUILDING PROGRAM MANAGEMENT SERVICES

This Agreement for Building Program Management (PM) Services is entered into this ____ day of _____, 2021 by and between Monterey Peninsula Community College District (“District”) and _____ (“PM”) who are collectively hereinafter referred to as “the Parties”. This Agreement is made and entered into with reference to the following recitals, each of which are incorporated into and made a part of this Agreement.

RECITALS

WHEREAS, the District is engaged in a building program (“Program”) consisting of the modernization, renovation and/or upgrades to facilities and other capital improvements (collectively “the Projects”) situated on the District’s Monterey Peninsula College (“MPC”) campus, MPC Education Center at Marina, Public Safety Training Center (“PSTC”) in Seaside, and other off-campus locations.

WHEREAS, funds for design, bidding and construction of the Projects are derived from Bond Measure V, enacted in November 2020, by the voters within the jurisdictional boundary of the District (“Measure V”).

WHEREAS, the District has or will retain architectural services firms (collectively, “the Architect”) in connection with the planning, development, preparation of Design Documents, bidding and/or construction of the Projects.

WHEREAS, in addition to the Architect, the District has or may retain other Consultants to provide services relating to the design, bidding, equipping, and/or construction of the Projects; such other Consultants and the Architect are collectively referred to herein as “the Professional Consultants.”

WHEREAS, in or about _____, 2021, the District issued a Request for Proposals pursuant to which proposals were sought from program management firms for the services set forth in this Agreement (“the RFP”).

WHEREAS, PM submitted a response dated _____, 2021 to the RFP (“the RFP Response”); the RFP Response is incorporated herein by this reference.

WHEREAS, in connection with the Projects, the District desires to retain PM to provide management and planning services in connection with planning, management and implementation of the Projects.

WHEREAS, PM is engaged in the business of providing facilities program management services; PM is duly qualified and capable of providing and performing the Basic Services set forth in this Agreement and Additional Services authorized by the District under this Agreement; personnel of PM performing or providing any of the Basic Services or District authorized Additional Services are duly qualified and capable of completing tasks assigned.

WHEREAS, PM’s staff is adequate in number and its current workload will permit timely completion of the Basic Services and other obligations for the Program in accordance with the terms of this Agreement; and

WHEREAS, the District desires to retain PM to provide and perform the services as more particularly described in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and other good and valuable consideration, the receipt and adequacy of which is acknowledged by the Parties, the Parties agree as follows:

1. BASIC SERVICES

1.1. General.

1.1.1. Performance of Basic Services. PM shall perform the Basic Services with its own employed personnel. Basic Services of the PM are those described in this Agreement.

- 1.1.2. PM Standard of Care. PM shall provide the Basic Services and authorized Additional Services using its best professional skill and judgment, acting with due care and in accordance with professional standards of care, the terms hereof and applicable law, code, rule or regulation. PM's services hereunder shall be provided and completed promptly and in such a manner as to avoid hindrance, interruption or delay to the orderly progress and timely implementation of the Projects.
- 1.1.3. Other Project Participants. PM's services hereunder shall be provided in conjunction with contracts between the District and: (i) the Architect; and (ii) the Professional Consultants. The Architect and the Professional Consultants shall perform their duties in accordance with their respective contracts with the District. Except as expressly set forth herein, neither this Agreement, nor PM's Basic Services hereunder shall be deemed PM's assumption of responsibility for the adequacy or sufficiency of the services provided by the Architect or other Professional Consultants relating to the Projects. The foregoing notwithstanding, PM's responsibilities under this Agreement shall include the coordination and general oversight of the performance of services by the Professional Consultants relating to the Projects in accordance with the terms of their respective contracts with the District.
- 1.1.4. Meetings and Conferences. PM shall attend and participate in meetings and conferences with the Professional Consultants, the District, District Staff, Student/Staff Committee(s)/Council(s), community organizations and/or the District's Board of Trustees relating to Measure V, the Building Program, and/or as otherwise necessary to discharge PM's obligations hereunder. PM agrees that although not specifically enumerated in this Agreement, the scope of PM's Basic Services shall be its attendance and participation in meetings and conferences with the various parties engaged in an element of the design, bidding or construction of a Project as requested or directed by the District.
- 1.1.5. PM Team. PM Services under this Agreement shall be completed by employees of PM that are dedicated to the District and the Building Program as set forth in Attachment A hereto. PM shall not replace any of PM Team members identified in Attachment A hereto without the prior consent and approval of the District, which may be granted, conditioned or denied in the sole discretion of the District, unless: (i) a PM Team member voluntarily elects to relinquish his/her employment with PM; (ii) a PM Team member's employment by PM is terminated by PM for cause; or (iii) the District requests replacement of a PM Team member. Any individual proposed by PM to replace a PM Team member identified in Attachment A hereto shall be subject to the District's prior approval.
- 1.2. Review of District Provided Information. PM and its personnel engaged in providing the Basic Services shall review information provided by or through the District relating to Projects in order to obtain a full understanding of: (i) the nature and extent of existing information relating to existing physical facilities and utility service support serving existing physical facilities; (ii) the District's 2020-2025 Educational Master Plan and 2020-2025 Facilities and Technology Master Plan ("Master Plans"), including modifications thereto incorporated as a result of or in connection with the Projects; (iii) Measure V ballot measure and all supporting, related materials; (iv) the availability of funding under Measure V and the Projects to be completed utilizing Measure V proceeds; and (v) the District's budget and time objectives for the Projects. PM shall review the Master Plans and other written materials made available by the District to PM which relate to the Master Plans to fully understand the nature, extent and intent of the Master Plans as they relate to or affect the Projects.
- 1.3. Development of Program Organizational Structure.
 - 1.3.1. Development of Proposed Organizational Structure. Within thirty (30) days of the date of this Agreement, PM shall develop and submit to the District Representative for review and

comment a proposed organizational structure for implementing design, bidding and construction of the Projects. The organizational structure shall include: (i) identification of key administrative personnel of the District; (ii) identification of key personnel of District user groups of the Projects; (iii) identification (by description) design professionals and other professional services necessary to complete planning, design, bidding or construction of the Projects. The organizational structure shall include protocols for: (i) exchange and processing of information and other communications relating to the Projects amongst the personnel/entities identified in the organizational structure; (ii) protocols for completing reviews of documents or other materials generated during design, bidding or construction of the Projects; and (iii) general descriptions of scopes of responsibility and authority of the personnel/entities identified in the organizational structure proposed by PM.

1.3.2. District Review. The District Representative shall review PM's proposed organizational structure and provide PM with comments or modifications necessary for the District's acceptance of the proposed organizational structure. PM shall incorporate comments or modifications of the District Representative to the proposed organizational structure and other revisions to the proposed organizational structure as necessary to obtain the District's acceptance of the entirety of the organizational structure.

1.3.3. Updating of Organizational Structure. During the Term of this Agreement, PM shall regularly update the District accepted organizational structure to reflect: (i) District personnel changes and (ii) District approved modifications to the District accepted organizational structure. PM shall distribute revisions to the District accepted organizational structure and District authorized modifications thereto as directed or requested by the District.

1.4. Facilities Assessments.

1.4.1. Review of Existing Facilities Assessments. PM shall review all existing assessments of the District's existing facilities, and the conditions thereof.

1.4.2. Facilities Assessments Recommendations. Within sixty (60) days of the date of this Agreement and based upon its review of the existing facilities assessments, PM shall submit a written report to the District incorporating: (i) recommendations, if any, for additional facilities assessments (if additional facilities assessments are recommended, the nature, scope and purpose of such additional assessments shall be set forth in writing to the District Representative), and (ii) analysis of the facilities assessments for purposes of identifying additional Projects or modifying the scope of the Projects. If the District accepts PM's recommendation to conduct additional facilities assessments and the District directs or authorizes PM to conduct such additional facilities assessments, PM shall complete such additional facilities assessments as Additional Services under this Agreement. If the District accepts PM's recommendation to conduct additional facilities assessments and the District retains third-parties to conduct such additional assessments, PM shall coordinate the completion of such additional assessments and provide general oversight of such third party's completion of such additional assessments as part of PM's Basic Services under this Agreement.

1.5. Master Project Budgets/Master Project Schedules.

1.5.1. Master Projects Schedule.

1.5.1.1. Preliminary Master Projects Schedule. Within ninety (90) days of the date of this Agreement, PM shall develop and submit to the District Representative for review and comment a Preliminary Master Projects Schedule: (i) identifying each of the Projects included in the Building Program; (ii) the anticipated schedule and durations

of activities to develop and complete plans/specifications, bidding, construction and occupancy for each of the Projects; (iii) setting forth assumptions incorporated; and (iv) narrative descriptions of constraints to achieving the objectives of the Master Projects Schedule, along with recommendations for measures to minimize the impacts of such constraints.

1.5.1.2. Final Master Projects Schedule. The Final Master Projects Schedule shall: (i) incorporate the Projects, including additions, deletions or other modifications reflected in the Final Facilities Master Plan; (ii) incorporate measures and sequencing to minimize construction-related disruptions or limitations to District operations and activities; (iii) be submitted to the District Representative for review and comment. Upon District review and comment, PM shall revise the Preliminary Master Projects Schedule and submit the revised Preliminary Master Projects Schedule for District review and comment; the review and revision process shall continue until the District has accepted the entirety of the Preliminary Master Projects Schedule.

1.5.1.3. Monthly Updated Master Projects Schedule. During the Term of this Agreement, PM shall submit to the District Representative no later than the fifteenth (15th) day of each month, an updated Master Projects Schedule, setting forth the then current status of planning, design, bidding or construction of each of Projects. If the then current status of planning, design, bidding or construction of a Project is delayed by thirty (30) or more days beyond the progress of that Project as indicated in the Final Master Projects Schedule, PM shall include a narrative description of the circumstances and factors contributing to such delays along with recommendations to the District for measures to be implemented to mitigate the effect of such delays and/or to expedite the progress of subsequent activities relating to the Project so that the progress of planning, design, bidding and construction of the Project conforms to that indicated for the Project in the Final Master Projects Schedule. PM shall implement such measures as directed or authorized by the District.

1.5.2. Master Program Budget.

1.5.2.1. Funding Sources. PM shall assist the District in: (i) ascertaining available funding sources to complete design, bidding and/or construction of the Projects, Secondary Effects and Interim Housing; (ii) constraints and requirements for the District to secure funding from a funding source; and (iii) measures to be implemented to secure funding from identified funding sources in the amounts identified. Material obligations of PM under this Agreement include without limitation: (i) its continuing assessment of potential funding sources available to the District to complete design, bidding or construction of the Projects; and (ii) routine and regular verbal and written reports to the District Representative of potential available funding sources and measures to maximize the District's receipt of all available funding from all potential funding sources and measures to ensure that the District is in receipt of all available funding from all potential funding sources.

1.5.2.2. Preliminary Master Program Budget. Within ninety (90) days of the date of this Agreement, PM shall prepare and submit to the District Representative, for review and acceptance by the District, a Preliminary Master Program Budget which sets forth the anticipated Project Costs for design, bidding and construction for: (i) each Project included in the Program; (ii) Secondary Effects resulting from implementation of the Projects; and (iii) Interim Housing. The District will complete review of the Preliminary Master Program Budget and provide PM with comments/modifications thereto within thirty (30) days after receipt thereof from PM.

- 1.5.2.3. Final Master Program Budget. Based upon the comments/modifications of the District after review of the Preliminary Master Program Budget, PM shall modify the Preliminary Master Program Budget to incorporate comments and/or modifications of the District, as authorized or directed by the District. Revisions to the Preliminary Master Program Budget shall be completed by PM within thirty (30) days after the date of the District's return of the District reviewed Preliminary Master Program Budget to PM. PM shall submit the revised Preliminary Master Program Budget to the District Representative for review and acceptance. PM shall modify the Preliminary Master Program Budget as necessary to obtain the District Representative's acceptance of the entirety of the Preliminary Master Program Budget. The Preliminary Master Program Budget accepted by the District Representative is referred to herein as the "Master Program Budget." Project Costs reflected in the Master Program Budget shall be routinely and regularly reviewed and updated by PM to: (a) reflect the actual costs incurred, being incurred and anticipated to be incurred for Interim Housing, each Project, and Secondary Effects resulting from the Projects in the process of design, bidding or construction at the time of an update to the Master Program Budget; and (b) reflect the anticipated Project Costs for Projects or Secondary Effects not in the process of design, bidding or construction at the time of an update to the Master Program Schedule. For purposes of the Master Program Budget, the term "Project Costs" shall be deemed all costs, fees, or expenses (except for the salaries and wage-related benefits for District employees) necessary to complete design, bidding and construction of the Projects, Secondary Effects and Interim Housing.
- 1.5.2.4. Monitoring of Master Program Budget. During the Term of this Agreement, PM shall routinely and regularly monitor the expenditure of funds to complete design, bidding and construction of the Projects, Secondary Effects and Interim Housing to confirm and verify that adequate funds remain to complete design, bidding and construction of all Projects, Secondary Effects and Interim Housing. A material obligation of PM is PM's written notice to the District upon PM's determination that the then remaining balance of the Master Program Budget is insufficient or likely to be insufficient to complete design, bidding and construction of the then remaining Projects, Secondary Effects and Interim Housing so that the District may consider alternatives to design, bidding or construction of the Projects or Secondary Effects to conform anticipated actual costs with costs reflected in the Master Program Budget.
- 1.5.2.5. Project Budget Monitoring Procedures. PM shall make recommendations to the District for the development and implementation of management procedures to facilitate the District's monitoring of costs incurred and to be incurred to complete design, bidding, and construction of a Project. Budget management and monitoring procedures shall include, without limitation, measures for tracking estimated and actual costs, cash flow projections/forecasts and other similar data. PM shall implement the procedures accepted by the District.
- 1.5.2.6. Monthly Updated Master Program Budget. During the Term of this Agreement, PM shall submit to the District Representative, no later than the fifteenth (15th) day of each month, an updated Master Program Budget conforming to the requirements set forth in this Agreement and the Master Program Budget monitoring procedures proposed by PM which are accepted by the District. Updates of the Master Program Budget shall include projections of costs to complete each of the Projects. If the costs to complete a Project, as reflected in an update to the Master Program Budget, exceeds the amount allocated for completion of the Project in the Master Program Budget by ten percent (10%) or more, PM shall include a narrative description of the circumstances and factors contributing to such potential cost overruns, along with

recommendations to the District for measures to be implemented to mitigate or eliminate such potential cost overruns. PM shall implement such measures as directed or authorized by the District.

1.5.2.7. Master Projects Schedules and Master Program Budget Software. PM shall utilize software programs and other systems as necessary to enable access to data and reports of the Master Projects Schedules and/or the Master Program Budget by PM and the District. Software programs and other systems to be used by PM shall be subject to the prior review and acceptance by the District.

1.6. Standards and Procedures.

1.6.1. District Standard Materials/Equipment.

1.6.1.1. Objectives. PM shall assist the District in the establishment of District standards for materials/equipment to be specified in Design Documents for the Projects and to be incorporated into the Projects to meet the following objectives: (i) consistency in materials/equipment incorporated into the Projects; (ii) cost effective initial procurement and installation; (iii) ease and cost-effectiveness of maintenance; (iv) conformity to functional and other operational requirements of the Projects; and (v) life-cycle cost-effectiveness; and (vi) sustainability.

1.6.1.2. Format. District standard materials/equipment shall be developed by PM based upon each Section of the Construction Specifications Institute (“CSI”) technical specifications and the materials/equipment typically incorporated into each section of CSI technical specifications.

1.6.1.3. Materials/Equipment Requirements. As necessary, PM shall meet and consult with the District facilities/administrative staff and the end-users of the Projects to generally ascertain and identify the materials/equipment to be incorporated into the Projects along with the nature and extent of such materials/equipment necessary for the Projects or portions of the Projects to operate and function as intended. PM shall conduct and complete survey(s) of existing physical facilities to generally determine and ascertain the types, brands and other related information regarding existing materials/equipment incorporated into existing physical facilities of the District.

1.6.1.4. Preliminary Standards. Upon completion of the surveys of existing facilities, PM shall assist the District in identifying proposed standard materials/equipment (“the Preliminary Standards”) for the Projects. PM shall submit the proposed Preliminary Standards to the District for review and comment by the District within one hundred fifty (150) days of the date of this Agreement. PM shall prepare modifications to the Preliminary Standards as necessary to obtain the District’s acceptance of the entirety of the Preliminary Standards; the District accepted Preliminary Standards are referred to in this Agreement as “Final Materials/Equipment Standards”.

1.6.1.5. Modifications to Final Materials/Equipment Standards. During the Term of this Agreement, PM shall annually, or more frequently as requested by the District, review the Final Materials/Equipment Standards or updates/revisions thereto for the purpose of updating/revising materials/equipment identified therein. PM shall prepare updates/revisions to the Final Materials/Equipment Standards or previously updated/revised Final Materials/Equipment Standards for submission to the District for review, comment and acceptance. Upon District acceptance of updates/revisions to the Final Materials/Equipment Standards, PM shall prepare and provide to the District copies of the updated/revised Materials/Equipment Standards.

1.6.1.6. Dissemination of Materials/Equipment Standards to Architects and Professional Consultants. PM shall implement measures necessary or appropriate for communicating to each Architect and other Professional Consultants retained by the District for a Project the Final Materials/Equipment Standards and subsequent modifications thereto. PM shall develop and implement: (i) procedures to confirm and verify that the Architect for a Project incorporates applicable Final Materials/Equipment Standards into the Design Documents prepared by the Architect for a Project; and (ii) measures to incorporate the Final Materials/Equipment Standards into the Design Documents for a Project.

1.6.2. Project Professional Services. PM shall develop procedures for the identification of services provided by Professional Consultants necessary for completing the design, bidding and construction phases of the Projects, including without limitation, architects, other design professionals, Project Inspection services, Special Test/Inspection Services, and soils/geo-technical services. PM shall develop procedures and guidelines for selection and retention of Professional Consultants for the District's review, comment and acceptance. PM shall modify the proposed procedures and guidelines for selection and retention of Professional Consultants necessary to complete the design, bidding and construction of the Projects; As requested by the District from time-to-time, PM shall assist the District in the: (i) development of Requests for Proposals or other documents to solicit Professional Consultants' proposals; (ii) review and evaluation of proposals submitted in response to the District's solicitation for Professional Consulting services; (iii) developing a recommendation to the District's Board of Trustees for award of a Professional Consultant services contract; and (iv) assistance to the District in the negotiation and development of terms and conditions of contracts between the District and Professional Consultants.

1.7. Bidding and Construction Procedures.

1.7.1. General. To facilitate and expedite completion of the bidding and construction process for the Project and to establish consistency in procedures utilized to complete the bidding and construction processes for the Projects, PM shall develop and maintain written procedures for bidding Projects and administration of the Construction Contracts awarded by the District for the Projects ("Bidding Guidelines").

1.7.2. Bidding Guidelines. PM shall develop procedures to comply with applicable bidding requirements for each Project and for expediting completion of the bidding process for each Project. The scope of the foregoing includes without limitation, recommendations with respect to: (i) guidelines for assessing whether or not to engage in a pre-qualification process for a Project; (ii) guidelines for combination of two or more of the Projects for design, bidding and/or construction purposes; and (iii) guidelines for adopting alternative construction delivery approaches for a Project, including considerations of a single general contractor, multiple trade contractor approaches to construction of each Project, and utilization of District purchased materials/equipment or other District resources in connection with construction of a Project. Initial Bidding Guidelines developed by PM shall be submitted to the District for review, comment and acceptance. PM shall modify the initially submitted Bidding Guidelines as necessary for the District's acceptance of the entirety of the Bidding Guidelines. During the Term of this Agreement, PM shall annually, or more frequently as requested by the District, review the Bidding Guidelines initially accepted by District for purposes of updates/revisions thereto. Updates/revisions to the Bidding Guidelines proposed by PM shall be submitted by PM to the District for review, comment and acceptance. During the course of implementing the Projects, PM shall review the bidding procedures utilized for Projects to confirm conformity to the then current Bidding Guidelines. If PM determines that the bidding procedures being applied to a

Project are inconsistent or not in conformity with Bidding Guidelines established by PM and accepted by the District, PM shall make recommendations to the District for measures to conform the bidding procedures for such a Project to the Bidding Guidelines accepted by the District.

- 1.7.3. Bid and Contract Documents. PM shall review the District's standard forms of Bid and Contract Documents; based on this review and the Bidding Guidelines, PM shall make recommendations to the District relating to modifications of the District's standard forms of Bid and Contract Documents for conformity to the Bidding Guidelines or to enhance the bidding process. PM shall assist the District and the Professional Consultants in incorporating modifications to the District's standard forms of Bid and Contract documents accepted by the District. During the Term of this Agreement and prior to issuance of documents to bidders for a Project, PM shall review the then current versions of the District's Bid and Contract Documents for updates/revisions. Updates/revisions to the then current version of the District's standard Bid and Contract Documents for adaptation to meet the requirements of the Project being bid.
- 1.7.4. Construction Procedures. PM shall prepare and develop for acceptance by the District procedures and processes to be implemented during the construction phase of the Projects relating to administration of the Construction Contracts, including without limitation measures to: (i) confirm and verify that Project construction activities and the Project as constructed and completed comply with the Laws; (ii) efficiently administer the Construction Contracts; and (iii) to expedite completion of Project construction. Construction Phase procedures subject to the foregoing include without limitation: Project meetings, the submission, review and acceptance of Submittals, Requests for Information, processing and disbursement of payments to contractors, procedures for handling and responding to contractor inquiries, Project schedule development and maintenance, coordination of test/inspection procedures and procedures relating to development and completion of Punch List items and the close-out of Construction Contracts. The Construction Procedures Manual prepared by PM shall be submitted to the District for review, comment and acceptance; PM shall modify the Construction Procedures Manual as necessary to obtain the District's acceptance of the entirety of the Construction Procedures Manual. During the Term of this Agreement, PM shall annually, or more frequently as requested by the District, review the then current version of the Construction Procedures Manual; updates/revisions to the then current version of the Construction Procedures Manual shall be prepared by PM and submitted to the District for review, comment and acceptance.
- 1.8. Measure V Webpage. PM shall assist the District in developing a web page design and content to provide the District's staff/students and the general public with information concerning Measure V, descriptions of the Projects funded by Measure V proceeds, the financial/completion status of the Projects and other general information relating to Measure V funds and Measure V Projects.
 - 1.8.1. Updates of Website Content. Not later than the fifteenth (15th) day of each month, during the Term of this Agreement, PM shall provide the District webmaster and/or the District's Public Information Officer with monthly updated/revised content for incorporation into the Measure V webpage. As requested by the District or as dictated by the circumstances, development of updated/revised Measure V webpage content by PM may be required more or less frequently than on weekly basis.
 - 1.8.2. District Discretion. Notwithstanding the District's acceptance of PM's Measure V updated/revised webpage content, the District shall have the sole discretion to modify the Measure V webpage content at any time during the Term of this Agreement.

- 1.8.3. Assignment of Intellectual Property Rights. Notwithstanding any provision of law to the contrary PM assigns to the District all right, title and interest in and to any intellectual property rights reflected in any of the work product resulting from PM's development of the Measure V web page design and contents; the foregoing assignment shall be effective without further action by the Parties. If any action of PM or the District is required to effectuate the foregoing assignment, PM shall cooperate with the District by taking such action(s) necessary to effectuate assignment of such intellectual property rights to the District and/or perfecting the District's intellectual property rights resulting from such assignment.
- 1.9. Labor Relations.
- 1.9.1. General. During the Term of this Agreement, PM shall assist the District in maintaining harmonious labor relations between the District and the various consultants, vendors, contractors and others providing work, labor, materials or services to design, bidding or construction of the Projects. PM shall routinely monitor the status of the Projects to mitigate any potential adverse impact of labor disputes, disagreements or controversies to the timely completion of design, bidding and construction of the Projects.
- 1.9.2. Project Labor Agreement. If during the Term of this Agreement the District considers entering into one or more Project Labor Agreements with building trade labor organizations or the District is requested by a building trade labor organization to consider a Project Labor Agreement in connection with construction of some or all of the Projects, PM shall assist the District in reviewing, evaluating and negotiating terms and conditions of such Project Labor Agreements.
- 1.10. Design Phase Oversight. During the design phase of a Project subject to this Agreement, PM shall generally oversee the development of Design Documents, periodically review iterations of the Design Documents and engage in discussions with the Architect and other Professional Consultants relating to preparation of the Design Documents or any portion thereof to confirm that: (i) the scope of the Project reflected in the Design Documents incorporate the requirements and objectives of the District for the Project; (ii) the estimated costs to construct the Project is consistent with the District's Construction Budget for the Project; and (iii) that the development of Design Documents is proceeding in accordance then current Master Projects Schedule. If PM cannot verify any of the foregoing, PM shall notify the District Representative in writing of such inability and provide the District Representative with recommendations for modification of the Project design so that (i) (ii) and (iii) above can be verified by PM. PM shall implement such measures as directed or authorized by the District.
- 1.11. CM Oversight. If the District retains a separate construction manager ("the CM") relating to design, bidding and construction of a Project, PM shall generally oversee CM's performance of its obligations relating to such a Project in accordance with CM's contract(s) with the District therefor. The foregoing shall include without limitation, periodic discussions with CM's personnel assigned to the Project and periodic reviews of written materials (including electronic files and graphic materials) generated or received by CM relating to the Project. If in the discharge of the foregoing obligations, PM determines that CM is/has not discharged its obligations relating to the Project in accordance with CM's contract(s) with the District, PM shall notify the District Representative in writing of such determination, the basis for reaching such determination and recommendations for remedial/corrective measures. PM shall implement such measures as directed or authorized by the District.
- 1.12. Relocation Services.
- 1.12.1. General. PM shall manage, coordinate and oversee the move of personnel and personal property to/from a Project and Interim Housing ("Interim Housing Relocation"). All of PM's services and actions relating to relocation services shall be performed and

completed in a timely manner consistent with the schedule for construction of the Project subject to relocation services.

1.12.2. Consultant Services. If the District determines appropriate for any Interim Housing Relocation, PM shall assist the District in the procurement and selection of a Consultant (“Relocation Consultant”) to assist the District and PM in completing an Interim Housing Relocation.

1.12.3. Relocation Schedule. PM shall, based on the progress of construction of the Project for which relocation services are necessary, develop a schedule for the preparatory activities for an Interim Housing Relocation (“the Relocation Schedule”), which includes without limitation, allocation of responsibilities for completion of specific tasks among the Relocation Consultant, if any, PM, District personnel and others engaged in an Interim Relocation. PM shall incorporate the Relocation Schedule and updates/revisions thereto into the Program Schedule. PM update/revise the Relocation Schedule as required by the then existing circumstances or as directed/authorized by the District. PM shall implement all measures necessary for compliance with such Relocation Schedule.

1.12.4. Sufficiency of Interim Housing. PM shall inspect the Interim Housing designated for personnel of a Project to be constructed for sufficiency to meet the occupancy and use requirements of such personnel. The foregoing includes without limitation, confirmation of the sufficiency of: (i) the overall space within the Interim Housing; (ii) the layout of Interim Housing spaces for use and occupancy as necessary; and (iii) utility services. If PM determines that the Interim Housing is not sufficient to meet the occupancy and use requirements of the relocated personnel, PM shall notify the District Representative in writing of such determination, along with specific recommendations for actions to render the Interim Space suitable for such occupancy and use. The Project Manager shall implement such measures as authorized or directed by the District.

1.13. PM Personnel and Resources.

1.13.1. PM Staffing.

1.13.1.1. PM Staff. PM shall provide all necessary staff personnel to complete the Basic Services, including without limitation, clerical, accounting and other functions necessary to timely and fully complete performance of the Basic Services and authorized Additional Services. PM staff and designated titles set forth in Attachment A hereto are accepted by the District as of the commencement of the Term of this Agreement. PM acknowledges that a material consideration in the District’s decision to enter into this Agreement with PM is PM’s commitment of the staff members identified in Attachment A. A material obligation of PM under this Agreement is PM commitment of the staff members identified in Attachment A for the duration of the Term of this Agreement. Such personnel shall not be replaced except in the event of the District’s request for replacement, PM’s termination for cause or personal decision of a staff member. Replacement personnel of PM shall be subject to the prior approval of the District, which may be granted, conditioned or denied in the sole discretion of the District. A periodic staffing review will commence between the District and PM every six months for the duration of this Agreement.

1.13.1.2. PM Staff On-Site. PM personnel identified in Attachment A and all necessary support staff for completion of the then current Basic Services shall be present at the District’s Administrative offices or such other location requested by the District as necessary to complete the Basic Services hereunder in a timely and complete manner.

- 1.13.1.3. Access to Services. PM shall grant the District and the District's employees, agents and representatives with full access to the services being provided or procured through others pursuant to this Agreement.
- 1.13.2. Furniture, Furnishings, Equipment, Facilities and Services to Complete Basic Services. Furniture, furnishings, equipment, facilities and services (collectively "Administrative Support Items") shall be provided, furnished or acquired by the District and PM as set forth herein.
 - 1.13.2.1. District Provided Administrative Support Items. District provided Administrative Support Items shall be limited to: (i) office space and related furnishings sufficient for the PM's on-site personnel; (ii) office equipment consisting of computer with Microsoft Office suite software and access to District servers and multifunction print, scan, fax device; and (iii) office hardline telephone and internet access.
 - 1.13.2.2. PM Provided Administrative Support Items. Except for the Administrative Support Items provided by the District as set forth above, without adjustment of the PM Contract Price, PM shall obtain or otherwise secure the use of all other furniture, furnishings and equipment necessary for discharge of its obligations under this Agreement.
- 1.14. Basic Services for Projects. In addition to the Basic Services of PM relating generally to the Program, PM shall provide, perform and complete Basic Services for each Project included in the Program as set forth herein.
 - 1.14.1. Project Architect, Construction Manager and Professional Consultants. PM shall meet and confer with the District Representative to review the extent to which an Architect, Construction Manager and other Professional Consultants need to be retained by the District to complete the design, bidding and construction of a Project. As required by the circumstances of the Project and as directed or authorized by the District, PM shall assist the District in (i) development of Requests for Proposals or other documents to solicit Architects, Construction Managers and/or Professional Consultants' proposals; (ii) review and evaluation of proposals submitted in response to the District's solicitation for Professional Consulting services; (iii) developing a recommendations to the District's Board of Trustees for awards of contracts to the Architect, Construction Manager and other Professional Consultants; and (iv) assistance to the District in the negotiation and development of terms and conditions of contracts between the District and the Architect, Construction Manager and Professional Consultants selected by the District for a Project.
 - 1.14.2. Management and Administration of Professional Consultants' Contracts. To the extent that any Professional Consultant for a Project is under direct contract to the District, PM shall assist the District in the management of the services of such Professional Consultants and administration of the contract(s) between the District and the Professional Consultants. The foregoing shall include without limitation, general oversight of the Professional Consultants completion of their respective obligations in accordance with the terms of their respective contracts, development and implementation of measures to verify and enforce Professional Consultants' performance in accordance with the terms of their contracts and the review, assessment and recommendation for disbursement of payments to Professional Consultants.
 - 1.14.3. Oversight of Project Design Phase Services. During the Design Phase of a Project, PM shall oversee the completion of the Design Phase services so that the Design Documents completed for the Project conform to the District's scope, budget and schedule requirements. Prior to commencement of the Design Phase of a Project, PM shall meet and confer with the District and end-users to establish programmatic

requirements for the Project. The foregoing shall include without limitation, reviews of Design Documents at appropriate stages of the preparation and completion thereof, confirmations that the Design Documents conform to District requirements, confirmation that District responsibilities relative to the Design Phase of a Project are completed in a timely manner (such responsibilities include: end-user group program/design requirements, completion of District tasks such as site surveys, hazardous materials surveys and geo-technical investigations/reports); implementation of measures as directed or authorized by the District to verify and confirm that the Design Documents conform to the District's scope, budget and schedule requirements and if the Design Documents are determined to be not in conformity with the District's scope, budget and schedule requirements, recommendations to the District for measures to revise the Design Documents so that they conform to the District's scope, budget and schedule requirements, as well as the implementation of such measures as directed or authorized by the District. At the commencement of the Design Phase of a Project, PM shall provide the District with a written statement outlining the Project scope, design/bidding/construction schedule, budget and District responsibilities relating to the Project. District responsibilities set forth in such written statement shall include without limitation, compliance with the Laws of federal, state, regional or local agencies with jurisdiction over any portion of the Project, hazardous materials investigation/remediation, site surveys and geo-technical analysis.

- 1.14.4. Oversight of Bidding Process. PM shall generally oversee the Bidding Phase of each Project. The foregoing shall include reviews of authorizations for the District to engage in the bidding process for a Project, confirmation that the Bid Documents have been appropriately developed and assembled for the Project, participation with the District, Architect and Construction Manager in the review of Bid Proposals submitted for a Project to assess Bidders' responsibility and responsiveness of Bid Proposals, objections/protests relating to the bidding process and for determination of the award of the Contract for a Project.
- 1.14.5. Oversight of Construction Phase. PM shall generally oversee the Construction Phase of a Project. The foregoing includes, without limitation, regular and routine monitoring and reviews of the financial records of the Project, including the disbursement of Progress Payments, withholding of Retention and processing of Changes/Change Orders, regular and routine monitoring and reviews of the Progress Schedule for the Project and updates/revisions thereof, monitoring the status of the submission, review and responses to Submittals and Requests for Information, general reviews of Project correspondence and other Project records and reviews of Changes and Change Orders for confirmation of scope and reasonableness of pricing.

2. ADDITIONAL SERVICES

- 2.1. General. Services provided by PM that are different from or in addition to those described herein as being included in the scope of Basic Services are referred to herein as "Additional Services." No Additional Services shall be performed without the prior written authorization of the District. No compensation shall be due from the District to PM for any Additional Services provided or performed by PM without the prior written authorization of the District.
- 2.2. Compensation to PM for Additional Services. Compensation to PM for Additional Services, if any, shall be on the basis of actual and reasonable time necessary to complete the authorized Additional Services computed in accordance with the personnel rates set forth in Attachment B, Personnel Rates. Attachment B is incorporated herein by this reference. The foregoing notwithstanding, if Additional Services authorized by the District result from the neglect of PM or PM's default under this Agreement, PM shall perform and provide such Additional Services without adjustment of PM's Contract Price hereunder. PM's obligation to perform Additional

Services under such circumstances is in addition to, and not in lieu of, PM's liability to the District for damages or losses sustained by the District as a result of such neglect or default.

3. DISTRICT RESPONSIBILITIES

- 3.1. Information. The District will provide PM with full information regarding the Projects, including without limitation, the Master Plans, Measure V, and other written materials relating to the Master Plans and Measure V.
- 3.1.1. Updates/Revisions to District Provided Information. The District will provide PM with updates/revisions of information provided by the District promptly upon the District's receipt thereof. The District will provide PM with additional information obtained or received by the District relating to the Projects, including without limitation, the Master Plan and/or Measure V promptly upon obtaining or receiving the same.
- 3.1.2. Limitations on PM Use of District Provided Information. The District shall retain title to and the right of possession to all information furnished to PM. All documents, including original drawings, estimates, specifications, field notes and data prepared, procured or may retain reproduced copies of any information or any other document, unless otherwise specified by a confidentiality or proprietary agreement. PM shall be bound by any confidentiality or proprietary agreement required by the District before accepting receipt of confidentially or proprietary information. In the event of termination of this Agreement for any cause, PM shall immediately deliver to District all items PM has possession, custody or control over, whether complete or in process.
- 3.2. District Representative. The District Representative is _____. The District Representative is authorized to act on behalf of the District with respect to this Agreement and to carry out the District's responsibilities under this Agreement.

4. TIME

- 4.1. Term of Agreement. The Initial Term of this Agreement shall commence as of the date of this Agreement and shall terminate thirty-six (36) months thereafter. The District shall have the right to extend the Initial Term for two renewal terms ("Extended Term") each of which shall be for twelve months, commencing on expiration of the Initial Term or immediately preceding Extended Term, as applicable. for the PM Contract Price due for PM's services during the Extended Term and modifications mutually agreed upon by the District and PM, all other terms, conditions and covenants of this Agreement shall apply to the Extended Term. Compensation to PM for services during an Extended Term shall be on a lump sum, fixed price basis, unless otherwise agreed to by the District in the sole discretion of the District.
- 4.2. PM Completion of Basic Services. PM shall complete the Basic Services under this Agreement within the time frames established by mutual agreement of the District. PM shall be liable to the District for all costs, losses or other damages sustained by the District as a result of the failure of PM to perform and complete the Basic Services within the time frames agreed upon between the District and PM, unless PM's performance and completion of the Basic Services is delayed, through no fault or neglect of PM, by: (i) acts, omissions or other conduct of the District; (ii) acts of God; (iii) acts of the Professional Consultants, Architect or Contractors, or (iv) by other causes not reasonably foreseeable at the time this Agreement is executed and which are not caused in whole or in part by the acts, omissions or other conduct of PM.

5. CONTRACT PRICE

- 5.1. PM Contract Price. The District shall pay PM an aggregate not to exceed amount of _____ ("PM Contract Price") for completion of the Basic Services. Payment of the PM Contract Price will be made by the District in accordance with the terms herein. The PM Contract Price includes the fee of PM, personnel expense of PM, inclusive of

all benefits and burdens, travel for personnel of PM to and from the Site, travel within the Counties of Monterey, San Luis Obispo, Santa Cruz, Santa Clara, San Benito, and King, insurance and other overhead costs associated with or arising out of performance of this Agreement, except for Allowable Reimbursable Expenses. Unless the scope of Basic Services is modified by the District, PM shall complete performance of the Basic Services without increase, not to exceed PM Contract Price. If costs, expenses or other charges necessary to complete the Basic Services in any twelve (12) month period exceeds the not to exceed PM Contract Price allocated for such twelve (12) month period, PM shall be solely responsible for payment, discharge and satisfaction of such excess costs, expenses and other charges without adjustment of the PM Contract Price.

- 5.2. Reimbursable Expenses. The PM Contract Price is inclusive of all expenses and costs incurred by the PM to complete the Basic Services and authorized Additional Services. Unless specifically authorized in writing by the District in advance, there shall be no reimbursement to the PM for expenses or costs incurred to complete the Basic Services or authorized Additional Services.
- 5.3. PM Billings to District. During the Term of this Agreement, the PM will submit monthly billings for payment of the PM Contract Price due for Basic Services and authorized Additional Services completed in the prior month. If the PM Contract Price is based on time incurred by the PM's personnel, PM billings shall: (i) identify the PM personnel who performed any Basic Services or authorized Additional Services in the preceding month; (ii) a detailed description of the services, tasks or other activities for each time entry; (iii) time entries shall be in increments of no more than one-half hour; and (iv) limited by the "not to exceed" amount(s), if any applicable to the Basic Services or authorized Additional Services. If the PM Contract Price is a lump sum fixed price, the CM's monthly billings shall be for the portion of the lump sum, fixed price due for the immediately preceding month. If requested by the District, the CM shall provide reasonably satisfactory substantiating data for payment requested by the CM.
- 5.4. District Payments of the PM Contract Price. Within thirty (30) days of receipt of a Billing Statement from PM, District will make payment to PM of undisputed amounts of the PM Contract Price due for Basic Services, authorized Additional Services and Allowable Reimbursable Expenses. No deductions shall be made or withheld from payments due PM hereunder because of any penalty, assessment liquidated damages or other amounts withheld by the District from payment to the Architect or Professional Consultants. The District may, however, withhold or deduct from amounts otherwise due PM hereunder if the PM shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after PM has fully cured its failure of performance, less costs, damages or losses sustained by the District as a result of such failure of performance of material obligations hereunder.

6. PM INSURANCE

- 6.1. Insurance Policies; Minimum Coverage Limits. Minimum coverage limits for policies of insurance to be obtained and maintained by PM are:

Policy of Insurance	Minimum Coverage Limits
General Liability	Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate
Automobile Liability	Combined Single Limit of Two Million Dollars (\$2,000,000)
Workers Compensation	In accordance with applicable law
Employers Liability	One Million Dollars (\$1,000,000)

Policy of Insurance	Minimum Coverage Limits
Professional Liability	Two Million Dollars (\$2,000,000) per claim and Four Million Dollars (\$4,000,000) in the aggregate

- 6.2. Workers Compensation and Employers Liability Insurance. Workers' Compensation Insurance shall cover claims under workers' or workmen's compensation, disability benefit and other similar employee benefit acts may be liable. Employer's Liability Insurance shall cover bodily injury (including death) by accident or disease to any employee that arises out of the employee's employment by PM or a Sub-Consultant. The Employer's Liability Insurance required hereunder may be obtained as a separate policy of insurance or as an additional coverage under the Workers' Compensation Insurance required to be obtained and maintained hereunder.
- 6.3. Commercial General Liability and Property Insurance. Commercial General Liability and Property Insurance shall provide coverage for the types of claims set forth below which may arise out of or result from PM's services under this Agreement and for which PM may be legally responsible: (i) claims for damages because of bodily injury, sickness or disease or death of any person other than PM's employees; (ii) claims for damages insured by usual personal injury liability coverage which are sustained by: (a) a person as a result of an offense directly or indirectly related to employment of such person by PM, or (b) by another person; (iii) claims for damages due to injury to or destruction of tangible property, including loss of use resulting therefrom; and (iv) contractual liability insurance applicable to PM's obligations under this Agreement. District shall be an additional named insured to PM's commercial general liability insurance policy.
- 6.4. Professional Liability Insurance. The policy of Professional Liability Insurance shall cover claims for errors, omissions and other conduct arising out PM's performance of services under this Agreement.
- 6.5. Automobile Liability. The policy of Automobile Liability insurance shall provide coverage for claims arising out of the operation of automobiles and other motor vehicles by PM in connection with performance of obligations under this Agreement. Automobile liability insurance may be provided through the PM's commercial general liability insurance policy.
- 6.6. Policy Endorsements; Evidence of Insurance. PM shall deliver to the District Certificates of Insurance evidencing each of the policies of insurance in the coverage amounts required hereunder. All policies of insurance required hereunder shall be issued by insurer(s) admitted to issue insurance by the State of California and to the reasonable satisfaction of the District. Coverages under each policy of insurance required hereunder, whether by endorsement or otherwise, shall provide that such policy will not be modified, canceled or allowed to expire without at least thirty (30) days advance written notice to the District.

7. INDEMNITY

- 7.1. PM Indemnification of District. To the fullest extent permitted by law, PM shall indemnify, defend and hold harmless the District and its employees, officers, Board of Trustees, Trustees and agents (excluding licensed professionals) ("the Indemnified Parties") from and against any and all claims, demands, losses, responsibilities or liabilities which arise out of the negligent, grossly negligent or willful conduct of the PM or the PM's employees, agents, representatives or independent contractors. The foregoing includes without limitation, claims, demands, losses, responsibilities or liabilities for: (i) injury or death of persons, (ii) damage to property (other than damage to a Project during the construction thereof if such damage is insured under the Project Builder's Risk Policy), or (iii) other losses, damages, costs or expenses asserted by any person or entity against the District which arise out. The foregoing shall include without limitation, reasonable attorneys' fees and costs incurred by the Indemnified Parties and shall survive the

termination of this Agreement or expiration of the Term of this Agreement until any claim, demand, loss, responsibility or liability covered by the provisions hereof is barred by the applicable statute of limitations.

- 7.2. District Indemnity of PM. The District shall indemnify and hold harmless PM from all claims arising out of bodily injury (including death) and physical damage, which arise out of the negligent or willful acts or omissions of the District or its employees, agents or representatives.

8. TERMINATION; SUSPENSION

- 8.1. Termination for Default. Either PM or District may terminate this Agreement upon seven (7) days advance written notice to the other if the other party is in default in performance of a material obligation hereunder and the party initiating the termination does not cause such default. Such termination shall be effective the seventh (7th) day following the date of the written termination notice. The foregoing notwithstanding, if the District exercises the right of termination hereunder, the District may elect, in the sole discretion of the District to establish the effective date of such termination. Termination of this Agreement for default of the PM shall include, without limitation the following events of default: (i) PM becomes bankrupt or insolvent, including the filing of a general assignment for the benefit of creditors; or (ii) if PM disregards applicable laws, codes, ordinances, rules or regulations. If the District exercises the right of termination hereunder, the amount due PM shall be based upon Basic Services and authorized Additional Services completed by PM as of the effective date of termination, reduced by damages, losses, costs or other expenses incurred or sustained by the District as a result of PM's default.

- 8.2. District Termination for Convenience. The District may, at any time, upon ten (10) days advance written notice to PM, terminate this Agreement in whole or in part for the District's convenience. If the District elects to terminate this Agreement or portions hereof for convenience, within thirty (30) days following the effective date of such termination for convenience, the District will make payment to PM for the Basic Services and authorized Additional Services provided prior to the effective date of the termination for convenience. Except as expressly set forth hereinabove, no other payment or compensation shall be due the PM upon the District's exercise of its right to terminate hereunder.

- 8.3. District Suspension of Services. The District may, in its discretion, suspend all or a part the Basic Services for such duration as determined solely by the District. If the period of suspension directed by the District exceeds sixty (60) or more consecutive calendar days and such suspension is not caused in whole or in part by the neglect or fault of the PM or PM's breach of this Agreement, upon resumption of the Basic Services, the PM Contract Price shall be subject to adjustment to reflect actual costs and expenses incurred by the PM as a direct and sole result of the suspension directed by the District.

9. MISCELLANEOUS

- 9.1. Conflicts of Interest Prohibited. PM shall not be permitted to submit proposals or otherwise seek contracts for the following services to be procured by the District in connection with the Projects: Design Professional; Project Inspector or Test/Inspection services. If PM identifies potential Design Professionals, Project Inspector or Test/Inspection services in connection with a Project, PM shall affirmatively and unequivocally represent and warrant to the District that neither PM nor any person who holds any equity interest in PM's organization is an former or current holder of any equity interest in the firm identified and that neither PM nor any holder of any equity interest in PM's organization has any financial interest in the firm identified.

- 9.2. Disclosure of Financial Interests. If required by law (whether statutory, judicial or administrative), members of PM's organization providing or performing any of the Basic Services or authorized Additional Services hereunder who are required to comply, shall comply

with the requirements of the Political Reform Act (Government Code §81000 et seq) and the financial disclosure requirements set forth in Government Code §87200 et seq.

- 9.3. Governing Law; Interpretation. This Agreement shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the District or PM. In the event of conflicts or inconsistencies between the terms of this Agreement and the RFP Response, the terms of this Agreement shall govern and prevail.
- 9.4. Limitations on PM Services. Nothing in this Agreement shall be deemed to require, or authorize, or permit PM to perform any act which would constitute design services, testing or technical or inspection services, or the practice of architecture, professional engineering, certified public accounting or law. The recommendations, advice, budgetary information and schedules to be furnished by PM under this Agreement are for the sole use of District and shall not be deemed to be representations or warranties or guarantees, or constitute the performance of licensed professional services. It is expressly understood that PM is not a guarantor or insurer of the Contract Documents, including the plans and specifications, or of any Work which is to be performed and managed by others.
- 9.5. Mutual Waiver of Consequential Damages. PM and the District waive claims against each other for consequential, incidental, indirect or special damages arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential, incidental, indirect or special damages due to either party's termination of this Agreement under Article 9.1 of this Agreement.
- 9.6. Successors; Non-Assignability. This Agreement and all terms hereof are binding upon and inure to the benefit of the respective successors of PM and the District. Neither PM nor District shall assign rights or obligations hereunder without the prior consent of the other, which consent may be withheld or granted in sole discretion of the Party requested to grant such consent.
- 9.7. Sub-Consultants. No portion of the Basic Services or authorized Additional Services shall be performed or provided by a Sub-Consultant to PM unless PM has previously notified the District in writing of the identity of a proposed Sub-Consultant, the tasks to be performed by the proposed Sub-Consultant and a description of the qualifications of the proposed Sub-Consultant for the tasks to be performed and the District has not objected to the proposed Sub-Consultant. Notwithstanding the District's consent to a Sub-Consultant proposed by PM, PM is responsible and liable to the District for the consequences of the acts, errors, omissions or other conduct of a Sub-Consultant.
- 9.8. Authority. The individual(s) executing this Agreement on behalf of the District and PM warrant and represent that she/he is authorized to execute this Agreement and bind the District and PM to all terms hereof.
- 9.9. Notices. Notices, which PM or the District are required or desire to serve on the other, shall be valid only if addressed to the other as set forth in the Agreement or modified by notice hereunder from time to time. Notices shall be effective only if by personal delivery requiring signature-acknowledging receipt or by United States Mail, Certified, Return Receipt Requested, First Class, postage fully pre-paid. Notices under this Agreement shall be addressed and delivered as follows:

If to District:

Vice President, Administrative Services
Monterey Peninsula Community College District
980 Fremont Street
Monterey, California 93940

If to PM:

- 9.10. PM Independent Contractor Status. In providing services under this Agreement, PM shall be an independent contractor to the District.
- 9.11. Marginal Headings; Captions. The titles of the various Articles and Paragraphs of this Agreement are for convenience of reference only and are not intended to and in no way shall enlarge or diminish the rights or obligations of PM and District hereunder.
- 9.12. Cumulative Rights; No Waiver. Duties and obligations imposed by this Agreement and rights and obligations hereunder are in addition to and not in lieu of any imposed by or available at law or in equity. No action or failure to act by District shall be deemed a waiver of any right or remedy afforded hereunder or acquiesce or approval of any subsequent breach or default by the other.
- 9.13. Disputes.
 - 9.13.1. Continuation of PM Services. Except in the event of the District's failure to make undisputed payment of the PM Contract Price due PM, notwithstanding any disputes between District and PM hereunder, PM shall continue to provide and perform Basic Services and authorized Additional Services pending a subsequent resolution of such disputes.
 - 9.13.2. Mandatory Mediation. All claims, disputes and other matters in controversy between the PM and the District arising out of or pertaining to this Agreement shall be submitted for resolution by non-binding mediation conducted under the auspices of the American Arbitration Association ("AAA") and the Construction Mediation Rules of the AAA in effect at the time that a Demand For Mediation is filed. The commencement and completion of mediation proceedings pursuant to the foregoing is a condition precedent to either the District or the PM commencing binding arbitration proceedings.
 - 9.13.3. Arbitration. All claims, disputes or other matters in controversy between PM and district arising out of or pertaining to the Project or this Agreement which are not fully resolved through the mandatory mediation set forth above shall be settled and resolved by binding arbitration conducted under the auspices of the AAA and the AAA's Construction Industry Arbitration Rules as modified herein. If any claim or dispute is asserted by the Architect or Professional Consultants relating to the Project or Program and arising in whole or in part out of this Agreement, PM and District agree that any arbitration proceedings initiated between PM and District hereunder shall be consolidated with any arbitration proceedings initiated in connection with such other claim or dispute with the Architect or Professional Consultant. The Arbitration Award shall be confirmed and reduced to a judgment only if the Arbitration Award is: (i) in accordance with applicable substantive legal principles; (ii) is supported by substantial evidence; and (iii) accompanied by a written statement of findings of fact and conclusions of law.
 - 9.13.4. Compliance with Government Code §§900 et seq. Notwithstanding the mediation and arbitration provisions set forth herein, all claims demands, disputes, disagreements or other matters in controversy of the Architect against the District seeking money or damages in any sum shall, as a condition precedent to suit including, without limitation, a demand for arbitration, be subject to the Architect's timely and full compliance with all applicable provisions of the California Government Code §§900 et seq.
- 9.14. Severability. If any provision of this Agreement is deemed illegal, invalid unenforceable or void by any court of competent jurisdiction, such provision shall be deemed stricken and deleted here from, but all remaining provisions will remain and continue in full force and effect.

- 9.15. Time. Time is of the essence to this Agreement. The time for performance of any obligation hereunder by either Party shall be extended only if performance of the obligation is delayed or prevented by the conduct of the other Party, acts of God, labor disturbances or other events outside of the control of the Parties.
- 9.16. PM Work Product. The entire work product of PM prepared or generated in connection with this Agreement is the property of the District. If the District exercises the right to terminate this Agreement pursuant to the terms hereof or upon expiration of the Term hereof, PM shall assemble and transmit to the District all of the work product of the PM generated, prepared, reviewed or compiled in connection with this Agreement and the Basic Services and authorized Additional Services hereunder. Upon request of the District, the PM shall make available to the District all work product completed or in progress at the time of such a request, for inspection review and/or reproduction by the District.
- 9.17. Entire Agreement. This Agreement, the RFP Response and Attachments A (PM Personnel) and B (PM Personnel Rate Schedule) hereto constitute the entire agreement and understanding between the District and PM concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or oral. No term or condition of this Agreement shall be modified or amended except by writing mutually executed by individuals authorized to do so on behalf of PM and the District.
- 9.18. Authority. The individual(s) executing this Agreement on behalf of PM warrant and represents that she/he is authorized to execute this Agreement and bind the PM to all terms hereof. The individual(s) executing this Agreement on behalf of the District warrant and represent that she/he is authorized to execute this Agreement and subject to approval and ratification by the District's Board of Trustees, to bind the District to all terms hereof and authority granted to enter into this Agreement.

IN WITNESS WHEREOF, the District and PM have executed this Agreement as of the date set forth above.

“District”
Monterey Peninsula
Community College District

“PM”

By: _____

By: _____

Title: _____

Title: _____

**ATTACHMENT A
PM PERSONNEL**

**ATTACHMENT B
PERSONNEL RATE SCHEDULE**