

# EXECUTIVE DESIGN PROFESSIONAL AGREEMENT LITE

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**EXHIBITS:**

- Exhibit A: Design Professional's Scope of Services & Payment Schedule
- Exhibit B: Design Professional's Rate Schedule for Additional Services
- Exhibit C: Authorization for Additional Services by the Design Professional
- Exhibit D: Amendment of the Executive Design Agreement
- Exhibit E: Certificate of Insurance
- Exhibit F: Requirements for Services Under EDPA Lite Subject to California Labor Code Sections 1770, Et. Seq.
- Exhibit G: Report of Subconsultant Information
- Exhibit H: Final Distribution of Contract Dollars
- Exhibit I: Self-Certification

## AGREEMENT FOR SERVICES OF EXECUTIVE DESIGN PROFESSIONAL

THIS AGREEMENT is made on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, between THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, a California corporation, hereinafter called "University" and DESIGN PROFESSIONAL NAME, a {INSERT FORM OF ENTITY e.g. a California corporation, a Partnership, etc.}, hereinafter called "Design Professional." Design Professional shall comply with all licensing laws of the State of California required for the services to be performed under this Agreement.

WHEREAS, University intends to construct a Project on properties of The Regents of the University of California, Merced, California, and

WHEREAS, University desires to obtain the professional services of Design Professional incident to construction of following Project:

Kolligian Library 3<sup>rd</sup> Floor West Reconfigure, Project Number \_\_\_\_\_ ;

WHEREAS, those professional services are briefly described as: reconfigure selected portions of approximately **30,000** assignable square feet of spaces and include coordination with University furniture vendor, demolition of existing framed walls, frame new walls, electrical modifications, HVAC adjustments, and finishes; such services are more specifically described in Exhibit A, Design Professional's Scope of Services and Payment Schedule.

NOW THEREFORE, University and Design Professional, for the considerations hereinafter set forth, agree as follows:

### ARTICLE 1 – GENERAL PROVISIONS

#### 1.1 DEFINITIONS

- A. Agreement.** The term "Agreement" means this Agreement, Exhibits, Amendments, and all other documents identified in this Agreement which together form the agreement between University and the Design Professional for the Work. The Agreement constitutes the complete agreement between University and the Design Professional and supersedes any previous agreements or understandings.
- B. Architect (or Engineer) of Record.** The term "Architect of Record" or "Engineer of Record" shall mean the specific University-approved Design Professional named in this Agreement who is the Design Professional's designated principal or staff member in charge of providing all services required by this Agreement.
- C. As-builts (As-built Drawings and Specifications).** The term "As-builts" shall mean the marked-up version of the Contract Documents prepared by the construction Contractor to record as-built conditions, current changes, and selections made during construction.
- D. Bidding Documents.** The term "Bidding Documents" shall mean those documents prepared and furnished by University for the purpose of obtaining bids from contractors to construct the Project, including without limitation, the General Conditions and General Requirements.
- E. Construction Budget.** The term "Construction Budget" shall mean University's written statement of funds available to pay for the cost of construction.
- F. Construction Documents.** The term "Construction Documents" shall mean the documents prepared and furnished by the Design Professional to be used for bidding the construction work for the Project.
- G. Contract Documents.** The term "Contract Documents" shall mean the Advertisement for Bids, Instructions to Bidders, Supplementary Instructions to Bidders, Bid Form, Agreement, General Conditions, Supplementary Conditions, Exhibits to the Construction Documents, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Notice of Completion and all other items identified as Contract Documents in the Construction Contract Agreement.
- H. Contractor.** The term "Contractor" shall mean the entity or entities retained by the University to perform the construction work entailed in the Construction Documents and related construction work for the Project.
- I. Coordinate.** The term "Coordinate" or "coordinate" shall mean to prepare designs and documents, including Construction Documents, ("Designs and Documents") that are consistent and in conformance each part with all other parts. When the term "Coordinate" or "coordinate" is used in connection with Design Professional's coordination of Design Build and Design Assist Subcontractors, it shall mean to prepare Designs and Documents that are consistent and in conformance each part with all other parts, including without limitation being consistent and in conformance with design, drawings, specifications and other deliverables provided by all Design Build and Design Assist Subcontractors. Related terms or forms of the word "coordinate", such as "Coordinated", "coordinated", "Coordination" or "coordination" shall mean that the Designs and Documents shall be prepared and correlated so as to be consistent and in conformance each part with all other parts.
- J. Estimated Project Construction Cost.** The term "Estimated Project Construction Cost" shall mean the written estimate of the total Construction Cost of the Project at the various stages of the design process prepared by Design Professional.
- K. Facility.** The term "Facility" means the University of California, Merced.
- L. Project.** The term "Project" means the project described on page 1 of this Agreement.
- M. Project Architect (or Engineer).** The term "Project Architect" or "Project Engineer" shall mean the specific University approved design professional named in this Agreement who is the Design Professional's designated architect (or engineer) who is the first point of contact in providing all services required by this Agreement.
- N. Project Program.** The term "Project Program" shall mean a written statement in the Exhibits of University's design objectives, constraints, and criteria, including space requirements and relationships, flexibility and expendability, special equipment and systems, and Project site requirements.

- O.** *Project Schedule.* The term "Project Schedule" shall mean the schedule prepared by University showing project milestones, funding, design, design review, construction, and other deadlines applicable to the Project.
- P.** *Record Documents.* The term "Record Documents" shall mean those documents (including without limitation the updated version of the Construction Documents) prepared by the Design Professional incorporating Addenda, Change Orders and information from the As-builts and other data furnished by Contractor to Design Professional.
- Q.** *University.* The term "University" shall mean the Regents of the University of California.
- R.** *University's Representative.* The term "University's Representative" shall mean the person or entity providing University's Representative services as indicated in the Contract Documents including, but not limited to, issuance of written communications with the Design Professional pursuant to Paragraph 4.1, and with the Contractor.

Other capitalized terms used in this Agreement, and not defined herein, shall have the meanings given or ascribed to them in the Contract Documents.

## **ARTICLE 2 - BASIC SERVICES**

Basic services to be provided by Design Professional consist of the services described in this Article 2, as amended and/or supplemented in Exhibit A.

- 2.1** To the extent deemed necessary by Design Professional and to extent required under applicable laws and codes, Design Professional shall employ architects, mechanical, electrical, structural, and civil engineers licensed as such by the State of California, and such other consultants necessary for the provision of services under this Agreement. All consultants provided under basic services shall be paid by Design Professional. Nothing in the foregoing shall create any contractual relationship between University and any consultants employed by Design Professional under the terms of this Agreement. Design Professional is as responsible for the performance of its consultants as it would be if it had rendered these services itself. Design Professional shall enter into written agreements with any consultants that it retains pursuant to this Agreement ("Consultant Agreements"). All such Consultant Agreements shall incorporate and be subject to: (1) the same dispute resolution requirements as in Article 9; and (2) the same indemnity requirements as in Article 10.1, with the University, its Regents, officers, employees, agents and representative named as Indemnitees. Design Professional shall furnish Consultant Agreements to University upon request.
- 2.2** Design Professional shall abide by all regulations imposed by authorities having jurisdiction over the Project.
- 2.3** Design Professional shall review and become familiar with the University's Bidding Documents, including the General Conditions and Division 1 Specifications and General Requirements of the construction contract for the Project, which shall be provided to Design Professional upon request.
- 2.4** Design Professional shall review site surveys; existing record documents; seismic data; mechanical, geotechnical, and other test reports; environmental documents, and any other documentation furnished by University. From an examination of the site and a review of available information, Design Professional shall determine whether such data are sufficient for purposes of design or whether additional data are needed and, if so, recommend the manner in which it be provided and needed services obtained.
- 2.5** Review, approval or acceptance of Design Professional's work whether by University or others and whether during Preliminary Phase, Construction Documents and Bidding Phase, Construction Phase or otherwise, shall not relieve Design Professional from responsibility for errors and omissions in Design Professional's work. Design Professional shall, at no cost to University, satisfactorily correct any and all errors, omissions, deficiencies, or conflicts in the Construction Documents prepared by Design Professional or Design Professional's consultants promptly upon discovery or notice. The obligations of Design Professional to correct such defective or nonconforming services or work product shall not in any way limit any other obligations of Design Professional.
- 2.6** Design Professional, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom Design Professional is responsible, shall provide all services pursuant to this Agreement in a manner consistent with the standard of care under California law applicable to those who specialize in providing such service for projects of the type, scope, and complexity of the Project (including its contracting mode).
- 2.7** University approved Project Architect or Project Engineer shall be the person named below: {Design Professional's Principal} Any substitutions to such personnel shall be subject to approval by the University.
- 2.8** Design Professional shall provide Preliminary Phase services, Construction Documents & Bidding Phase services, Estimates of Construction Cost and Construction Phase services, pursuant to Articles 2.8 A, B, C & D below, (collectively "Full Basic Services") to the extent indicated in Exhibit A. Upon written direction from the University to Proceed, Design Professional shall provide the following Full Basic Services:
  - A. Preliminary Phase**
    - 1. Visit the site and hold such conferences with University representatives as may be necessary to relate the design of the Project to the general plan of said properties and to the Construction Budget furnished by University.
    - 2. Provide consultation and advice to University as to the necessity and manner of providing or obtaining services related to the site such as: Property, boundary, right-of-way, topographic, hydrographic, and utility surveys, and

- soil mechanics and subsurface information.
3. Provide, at a minimum, schematic level drawings (including site plan, floor plans, other plans, elevations, sections, sketches and key details, all to the extent applicable to this Project and as required by the University), outline specifications and if necessary written narratives or descriptions ("Preliminary Deliverables"), within the time schedule established by University, which are sufficient to: (a) demonstrate that the preliminary design furnished by Design Professional fulfills the University's programmatic needs and is within the Construction Budget; (b) demonstrate that the preliminary design furnished by the Design Professional, and the various components necessary to that design, are code compliant, constructible and Coordinated; (c) obtain preliminary permit approvals and other approvals necessary from building officials and other authorities having jurisdiction over the Project; and (d) obtain a reliable Estimated Project Construction Cost from third parties in the industry, including construction contractors, as required by the University.
4. Prepare and furnish one copy and an electronic file, within the time schedule established by University: Preliminary Deliverables, a preliminary estimate of construction cost, pursuant to Paragraph 2.8C below, and a time schedule for completion of Construction Documents and construction in sufficient detail to enable University to decide upon the general plan and scope of the Project, and to approve the preliminary design, Preliminary Deliverables, preliminary estimate of construction cost and time scheduling of the Project.

**B. Construction Documents & Bidding Phase**

1. After written authorization from the University, and based upon the Preliminary Deliverables and designs contained therein as approved by the University, prepare and furnish for University approval within the time schedule established by University, one copy of: (a) Construction Documents for the Project, in reproducible form, consisting of working drawings and specifications, and such standard documents as may be furnished by University; and (b) an Estimated Project Construction Cost for the Project, pursuant to Paragraph 2.8C below. Multiple copies of the Construction Documents will be provided by the University at University expense, or by Design Professional as an Additional Service, at University election.
2. Design Professional shall provide Construction Documents (including site plan, floor plans, other plans, elevations, sections, details, schedules and specifications, all to the extent applicable to this Project and as required by the University), and designs contained or reflected therein, which at a minimum shall: (a) fulfill the University's programmatic needs; (b) be within the Construction Budget; (c) be fully code compliant; (d) be constructible and Coordinated; (e) be sufficient for obtaining all necessary permits and other approvals for the Project from building officials and other authorities having jurisdiction over the Project; and (f) comply with the Design Professional's standard of care obligations under this Agreement.
3. Project shall comply with all applicable laws, rules, and regulations of the California Code of Regulations ("Laws and Codes"). Design Professional is responsible for design's compliance with Laws and Codes. Design Professional is also responsible for design's compliance with all applicable University policies, including but not limited to, Sustainability Policy, Seismic Policy, and the policies in the Facilities Manual. Design Professional shall assist University, when so directed, in applying for and obtaining approvals from public agencies, and in preparing special progress reports for public agencies.
4. Design Professional shall assist and advise University in the taking of bids for construction and in the awarding of contracts.
5. If the lowest responsible bid for the Project exceeds the Construction Budget by more than {percentage, e.g., 10%}, upon request and at no additional cost or expense to University, Design Professional shall revise the Construction Documents to reduce the construction cost to an amount which shall not exceed the Construction Budget. The revisions so made are subject to the approval of University and may, at its discretion, consist of reductions in the scope, type or quality of construction.
6. During the Bidding phase, University's Representative shall receive all requests for interpretation, clarification and modification from bidders ("Bidding Questions"), and log in the date, time, and caller's name and corresponding Bidding Questions. The University's Representative will forward this information to the Design Professional, and Design Professional and its consultants shall provide timely clarifications and direction to the University on the Bidding Questions, which the University shall in turn issue to the bidders. Neither Design Professional nor its consultants shall provide such clarifications and direction directly to the Bidders. To the extent that bidders contact the Design Professional and its consultants directly with Bidding Questions, Design Professional and its consultants shall promptly forward all Bidding Questions they received directly from bidders, as well as Design Professional's and its consultant's clarifications and direction on those Bidding Questions, to the University's Representative for further handling.
7. The University's Representative sets the deadline for receiving all Bidding Questions (Refer to Advertisement for Bids and Supplementary Instructions to Bidders). Bidding Questions received after the deadline may be answered at the discretion of the University's Representative.

**C. Estimates of Construction Cost As Needed**

Design Professional shall prepare and deliver estimates of construction cost to accompany and correlate to the then current design submittals provided to the University at the close of both the Preliminary Phase and the Construction Documents Phase of services. The following shall apply to such estimates:

1. The estimates shall be referenced to the Construction Cost Index for the county the Project is located at, as published by the Engineering News Record.
2. These estimates shall, at each Phase, define the then current Estimated Project Construction Cost.
3. Throughout the Project, the Design Professional shall keep the Estimated Project Construction Cost within the Construction Budget.
4. If the Estimated Project Construction Cost exceeds the Construction Budget, University shall either approve a

higher Construction Budget or shall authorize Design Professional to revise its Designs And Documents, including by making changes to the scope, type and/or quality of construction, so that the cost of construction for the Project is within the Construction Budget. Such revisions shall be made by Design Professional at no additional cost to University.

**D. Construction Phase**

Design Professional shall provide the following Construction Phase services:

1. Interpret the Contract Documents when requested by University and furnish one copy in reproducible form of all clarification drawings required by University. Prepare, for approval by University, change orders to construction contracts which are necessary as a result of such interpretations and/or clarifications, analyze price quotations received from construction contractors for such change orders and advise University as to the acceptability of same.
2. Make all revisions and changes to the Contract Documents as directed by University, and at no cost to the University, to correct errors, conflicts, or omissions. Design Professional shall not issue orders to construction contractors that might commit the University to extra expense, or otherwise amend the construction contract, without written approval of University.
3. Make periodic visits to the Project to ascertain that progress of the work, the character, scope and detail of construction, the quantity and quality of materials and equipment, and the standard of workmanship conform to the intent of the Design Professional as expressed in the Contract Documents and by his/her directives; attend project meetings as directed by University; prepare minutes of such project meetings for distribution as directed by University.
4. Interpret the Contract Documents for the resident inspectors; advise said inspectors of all decisions rendered pursuant to this section; conduct a daily review of the inspection reports submitted by said inspectors; and, issue such directives as the evaluation of the report data dictates necessary to obtain compliance with the requirements of the Contract Documents.
5. Make prompt determinations in disputes involving the quality and acceptability of: Materials furnished, work performed, and the manner of performance.
6. Analyze, and advise University as to acceptability of test reports, methods, materials, equipment and systems.
7. Review, and advise University as to the acceptability of substitutions proposed by the construction contractor.
8. Review, and advise construction contractors as to the acceptability of: Samples, fabrication, erection, and setting drawings, wiring and control diagrams, schedules, lists of materials and equipment, submittals, and other descriptive data pertaining to materials, equipment or methods of construction.
9. Review proposed construction contract change orders for compatibility with the project design and advise University as to the acceptability thereof.
10. When requested by University, determine the amounts of progress payments and final payment due to the construction Contractor.
11. Promptly furnish the University with Record Documents of the project on a University approved medium capable of reproduction by direct printing process. Such drawings shall include all changes in actual construction which differ from that shown on the original Construction Documents.
12. Participate in the final inspection of the Project and advise University as to the acceptability of the work of construction.
13. Unless determined otherwise by the University, the Construction Phase will commence on the effective date of the Notice to Proceed issued by the University to the Contractor, and will end 3 months after Final Completion of the construction work, or cessation of work, if Final Completion is not attained. However, if Design Professional's obligations under this Agreement are not completed by either such date, the Construction Phase will not end before Design Professional has completed its obligations under this Agreement, including its obligations to provide Record Documents as provided above.

**2.9 INDEPENDENT SEISMIC/STRUCTURAL REVIEW**

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

**2.10 SCHEDULE**

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

**ARTICLE 3 – ADDITIONAL SERVICES**

**3.1.** Design Professional shall, if requested and authorized in writing by University:

- A.** Make revisions and changes in the Construction Documents after approval under Paragraph 2.8.B.1, but only if revisions are over and above the requirements of Paragraphs 2.8.D.1 and 2.4.D.2.
- B.** Analyze price quotations received for proposed changes to the work of construction and advise University as to their acceptability, except that there shall be no reimbursement for such work if required pursuant to Paragraphs 2.8.D.1 and 2.8.D.2.

- C. Provide multiple copies, in addition to those specified in Article 2 – Basic Services, of the Construction Documents.
- D. Retain and discharge special consultants as directed by University for designated parts of the Project and provide such consultants with information or data as is necessary for performance of the designated work.
- E. Provide and supervise resident construction inspectors for on-site inspection of the work.
- F. Inspect Project during guarantee periods and advise University of deficiencies in the Project noted during such inspections.
- G. Provide other Additional Services not identified in items A through F above.
- H. Provide other Additional Services as identified in Exhibit A.

Except to the extent that Additional Services are identified in Exhibit A and thus being provided as part of Design Professional's original scope of work under this Agreement, any and all other Additional Services to be provided by Design Professional under this Agreement shall be identified in one or more Authorizations, following the form contained in Exhibit C.

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

- 4.1. University shall designate, in writing, prior to bidding, a University's Representative who will act on behalf of University with respect to this Agreement. Design Professional shall accept directives only from University's Representative and not from other University employees or consultants. University representative shall be the person named: Fran Telechea. University may replace University's Representative at its sole option; if this replacement is made, University shall notify Design Professional in writing.
- 4.2. University shall, when requested by Design Professional, except where it may otherwise arrange with Design Professional to provide these services as Additional Services, pursuant to Article 3:
  - A. Furnish the outline description of the Project.
  - B. Provide any existing record drawings in connection with renovation or remodeling projects.
  - C. Provide property, boundary, right-of-way, topographic, hydrographic, and utility surveys, soil mechanics and information.
  - D. Provide resident construction inspectors.
  - E. Provide for laboratory and control testing of construction materials, methods, equipment and systems.
  - F. Obtain and assemble written guarantees, instruction books, diagrams and charts required of construction contractors.

#### **ARTICLE 5 – COMPENSATION**

##### **5.1 COMPENSATION FOR SERVICES TO BE PROVIDED UNDER THIS AGREEMENT**

Compensation for services payable by University under this Agreement shall not exceed the "NTE Amounts" identified for each scope of work to be provided by Design Professional under this Agreement, as set forth in Exhibit A. The payment schedule for services to be provided under this Agreement is identified in Exhibit A.

##### **5.2 COMPENSATION FOR ADDITIONAL SERVICES**

Except to the extent that Additional Services are identified in Exhibit A and thus being provided as part of Design Professional's original scope of work under this Agreement, compensation for Additional Services will be made in accordance with the fully executed written Authorizations for such Additional Services, following the form contained in Exhibit C. Compensation for such Additional Services shall not exceed the rates set forth in Exhibit B-Design Professional's Rate Schedule for Additional Services. Payment for such Additional Services compensation shall be made in accordance with Article 6. Design Professional shall not be entitled to any Additional Services compensation for any services that are required of Design Professional as part of its Basic Services or original scope of work under this Agreement, as identified in Exhibit A, or for any services that have not been authorized by a fully executed written Authorization, following the form contained in Exhibit C.

#### **ARTICLE 6 – PAYMENTS**

Invoices for all payments shall be sent to the following address: 5200 N Lake Rd, Merced, CA 95340 Attention Fran Telechea.

University shall make payments to the Design Professional no more frequently than monthly, subsequent to the receipt of an invoice which is in accordance with the terms of this Agreement, including without limitation the Payment Schedule and related terms in Exhibit A. Design Professional shall provide back-up documentation and detail for its invoices to the extent required by University.

#### **ARTICLE 7 - DESIGN PROFESSIONAL'S RECORDS & FILES**

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

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

Drawings, specifications, documents, reports, surveys, renderings, exhibits, models, prints, photographs, and other materials prepared or furnished by the Design Professional hereunder shall be and shall remain the property of the University whether or not the Project for which they are made is executed. Design Professional shall be permitted to retain copies, including reproducible copies, of the Drawings and Specifications for information and reference. Neither University nor Design Professional shall use the Drawings and Specifications as a whole or in substantial part on other projects, but either may reuse details of the Drawings for other projects. University may use the Construction Documents, without Design Professional's consent, in connection with the Project, including without limitation, future additions, expansions, renovations, alterations, connections, repairs, information, reference, use or occupancy.

## **ARTICLE 9 - DISPUTES**

### **9.1 NEGOTIATION**

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

### **9.2 MEDIATION**

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

### **9.3 ARBITRATION OR LITIGATION**

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

- A.** Arbitration with Contractor. If any claim arises under the Construction Contract Documents for the Project and is submitted to arbitration, and either Contractor or University claims that the acts or omissions of Design Professional are involved, in whole or in part, any claim by University against Design Professional arising out of or in connection therewith may be asserted, at the option of University, against Design Professional in the same arbitration proceeding which shall be conducted under the procedures specified in the General Conditions of the construction contract.
- B.** Litigation with Contractor. If any claim arises under the Construction Contract Documents for the Project and is submitted to litigation, and either Contractor or University claims that the acts or omissions of Design Professional are involved, in whole or in part, any claim by University against Design Professional arising out of or in connection therewith may be asserted, at the option of University, against Design Professional in the same litigation.
- C.** Litigation without Contractor. Disputes arising from this Agreement between Design Professional and University which cannot be settled through negotiation or mediation, and which are not resolved by arbitration or litigation pursuant to subparagraphs 9.3.A and 9.3.B shall be subject to litigation without Contractor. Any such litigation shall be filed in the Superior Court of the State of California for the County in which the contract was to be performed.
- D.** The University may offset against the outstanding contract balance the amount of the University's own affirmative claims against the Design Professional provided such claims are based upon alleged breaches of this Agreement or alleged failure to conform to the professional standard of care set forth in Article 2.6 of this Agreement. The University shall inform the Design Professional in writing of its intention to offset on or before exercising its right to offset under this Agreement. Within three days following receipt of such written notice, the Design Professional may elect to submit the issue of the University's intention to offset to non-binding mediation administered by the AAA. Such mediation shall take place not less than 15 days and not more than 45 days following the date that the University receives notice of Design Professional's election to mediate regarding the University's intention to offset. The University's obligation to pay any outstanding contract balance shall be stayed and tolled until the first business day following the date of the mediation concerning the University's intention to offset. If the University decides to exercise its right to offset following mediation regarding the University's intention to offset, notice of such offset shall be given to Design Professional by University in writing. If Design Professional does not demand mediation concerning the University's intention to offset, then the University's notice of its intention to offset shall be deemed notice of the decision to offset by the University. Irrespective of whether Design Professional elects to mediate the issue of the University's intention to offset, Design Professional may dispute the University's decision to offset by commencing litigation pursuant to the terms of Article 9, or by asserting that dispute in any arbitration commenced under Article 9.3.A.

## **ARTICLE 10 - INDEMNIFICATION & INSURANCE**

### **10.1 INDEMNIFICATION**

- A.** Design Professional shall indemnify, defend, and hold harmless University and its Regents, officers, employees, agents, and representatives (collectively, "Indemnitee"), against all liability, demands, claims, costs, damages, injury including death, settlements, and expenses (including without limitation, interest and penalties) incurred by Indemnitee ("Losses") arising out of the performance of services or Design Professional's other obligations under this Agreement, but only in proportion to and to the extent such Losses are caused by or result from (1) the negligent acts or omissions of Design Professional, its officers, agents, employees, subcontractors, consultants, or any person or entity for whom Design Professional is responsible (collectively, "Indemnitor"); (2) the breach by Indemnitor of any of the provisions of this Agreement; or (3) willful misconduct by Indemnitor.
- B.** The indemnification obligations under this Article 10 shall not be limited by any assertion or finding that (1) the person or entity indemnified is liable by reason of non-delegable duty, or (2) the Losses were caused in part by the negligence of,



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

- C.** Design Professional shall indemnify, defend, and save harmless Indemnitee from and against all loss, cost, expense, royalties, claims for damages or liability, in law or in equity, including, without limitation, attorney's fees, court costs, and other litigation expenses that may at any time arise or be set up for any infringement (or alleged infringement) of any patent, copyright, trade secret, trade name, trademark or any other proprietary right of any person or entity in consequence of the use on the Project by Indemnitee of the design or construction documents (including any method, process, product, concept specified or depicted) supplied by Indemnitor in the performance of this Agreement.
- D.** Nothing in this Agreement, including the provisions of this Article 10, shall constitute a waiver or limitation of any rights which Indemnitee may have under applicable law, including without limitation, the right to implied indemnity.

## **10.2 INSURANCE REQUIREMENTS**

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

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

<b>.1</b> Each Occurrence	\$1,000,000
<b>.2</b> Products Completed, Operations Aggregate	\$2,000,000
<b>.3</b> Personal and Advertising Injury	\$1,000,000
<b>.4</b> General Aggregate	\$2,000,000

- B.** Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles, with a combined single limit of no less than \$1,000,000 per accident.
- C.** Professional Liability Insurance, with limits of \$2,000,000 per claim and \$2,000,000 in the aggregate. At the option of the University and in its sole discretion, the University may require Design Professional to purchase project specific professional liability insurance for the Project as a reimbursable cost with the minimum limits.
- D.** If the above insurance (subparagraphs 10.2.A-10.2.C) is written on a claims-made basis, it shall be maintained continuously for a period of no less than 3 years after the date of Final Completion. The insurance shall have a retroactive date of placement prior to or coinciding with the date services are first provided that are governed by the terms of this Agreement and shall include, without limitation coverage for professional services as called for in this Agreement. Insurance required by subparagraphs 10.2.A-10.2.C shall be (i) issued by companies that have a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's) or (ii) guaranteed, under terms consented to by the University (such consent to not be unreasonably withheld), by companies with a Best rating of A- or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's).
- E.** Workers' Compensation as required by law in the state in which work is performed and Employer's Liability insurance with coverage and minimum limits as follows:

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

Insurance required by this subparagraph 10.2.E shall be issued by companies (i) that have a Best rating of B+ or better, and a financial classification of VIII or better (or an equivalent rating by Standard & Poor or Moody's); or (ii) that are acceptable to the University.

- F.** Design Professional, upon the execution of this Agreement, shall furnish University with Certificate of Insurance evidencing compliance with this Article 10, including the following requirements:
  - .1** Design Professional shall have the insurance company complete University's form, Certificate of Insurance in the Exhibits. If Design Professional's insurance company refuses to use the University's Certificate of Insurance form, it must provide a Certificate of Insurance (and endorsements, if needed) evidencing compliance with Paragraph 10.2 and Special Provisions 1 through 3 on the Certificate of Insurance Exhibit. It alone constitutes evidence of insurance.
  - .2** Provide that coverage cannot be canceled without advance written notice to University, in accordance with policy provisions.
  - .3** If insurance policies are canceled for non-payment, University reserves the right to maintain policies in effect

by continuing to make the policy payments and assessing the cost of so maintaining the policies against Design Professional.

- .4 University, University's officers, agents, employees, consultants, University's Representative, and University's Representative's consultants, regardless of whether or not identified in the Contract Documents or to Design Professional in writing, will be included as additional insureds on Design Professional's general liability policy for and relating to the Work to be performed by Design Professional and its consultants. Design Professional's general liability insurance policy shall name University as an additional insured pursuant to additional insured endorsement CG2010 (11/85) or a combination of both CG 2010 (10/01 or 07/04) and CG 2037 (10/01 or 07/04). The General Liability coverage shall contain a Severability of Interest provision and shall be primary insurance as respects The Regents of the University of California, its officers, agents and employees. Any insurance or self-insurance maintained by The Regents of the University of California shall be excess of and non-contributory with this insurance. This requirement shall not apply to Worker's Compensation and Employer's Liability Insurance. The Professional Liability insurance policy shall include Contractual Liability Coverage or endorsements to the insurance policies for Contractual Liability Coverage for liability that would exist in the absence of the contract.
- .5 The General Liability and the Professional Liability insurance policies shall apply to the negligent acts, or omissions of Design Professional, its officers, agents, employees, and for Design Professional's legal responsibility for the negligent acts or omissions of its consultants and anyone directly or indirectly under the control, supervision, or employ of Design Professional or Design Professional's consultants.

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

### **11.1 ANTI-DISCRIMINATION**

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

### **11.2 PREVAILING WAGE RATES**

- A. For purposes of the Article, the term subcontractor or consultant shall not include suppliers, manufacturers, or distributors.
- B. Design Professional shall comply and shall ensure that all subcontractors, consultants or subconsultants comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, and 1775, 1776, 1777.5, and 1777.6 of the State of California Labor Code. Compliance with these sections is required by this Agreement. The Work under this Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. References to "PW Services" hereinafter shall mean services performed pursuant to this Agreement that are covered by the aforementioned provisions as implemented by the State of California Department of Industrial Relations. To the extent that Design Professional is providing any PW Services under this Agreement, whether through itself or through subcontractors, consultants or subconsultants, Design Professional shall comply with the requirements set forth in Exhibit F, which are hereby incorporated by reference.
- C. Design Professional shall pay all persons providing services and/or any labor on the Project site, or at any University location, no less than UC Fair Wage (defined as \$13 per hour as of 10/1/15, \$14 per hour as of 10/1/16, and \$15 per

hour as of 10/1/17) and shall comply with all applicable federal, state and local working condition requirements.

### **11.3 PATIENT HEALTH INFORMATION**

If Design Professional or its employees, agents, subcontractors, consultants or others acting on its behalf encounter or come into contact with Patient Health Information ("PHI") while performing work under this Agreement, Design Professional shall: (1) immediately notify University Representative of any such encounter or contact: and (2) fully cooperate with the University as directed to ensure that all forms of PHI which are the subject of such encounter or contact shall not be examined closer, copied, photographed, recorded in any manner, distributed or shared.

## **ARTICLE 12 - EXTENT OF AGREEMENT**

### **12.1 AUTHORITY OF AGREEMENT**

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

### **12.2 EXHIBITS**

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

Exhibit {A}	Design Professional's Scope of Services & Payment Schedule
Exhibit {B}:	Design Professional's Rate Schedule For Additional Services
Exhibit {C}:	Authorization To Perform Additional Services
Exhibit {D}:	Amendment
Exhibit {E}:	Certificate Of Insurance
Exhibit {F}:	Requirements For Services Under EDPA Lite Subject To California Labor Code Sections 1770, et. seq.
Exhibit {G}:	Report of Subconsultant Information
Exhibit {H}:	Final Distribution Of Contract Dollars
Exhibit {I}	Self-Certification

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

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

### **12.4 SURVIVAL**

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

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

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

## **ARTICLE 14 - NOTICES**

Any notice required under this Agreement may be served upon the University by hand delivering it in writing addressed to:

University of California Merced  
5200 N. Lake Rd.  
Merced, CA 95340

or by transmittal via a recognized overnight mail services such as Fed-Ex or United Parcel Service, with postage fully prepaid and addressed to the University at the above address, and to the Design Professional by hand delivering it in writing addressed

to the Design Professional at:

DESIGN PROFESSIONAL NAME  
STREET ADDRESS  
CITY, STATE ZIP

or by transmittal via a recognized overnight mail services such as Fed-Ex or United Parcel Service, with postage fully prepaid and addressed to the Design Professional at the above address. Notices shall be deemed effective upon receipt.

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

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

##### **15.1 DESIGN PROFESSIONAL'S DEATH OR INCAPACITATION**

- A.** If Design Professional transacts business as an individual, upon Design Professional's death or incapacitation, University may, at its option, terminate this Agreement as of the date of such event. If so terminated, neither Design Professional, nor Design Professional's estate shall have any further right to perform hereunder, and University shall pay Design Professional or the estate the compensation payable under Article 5 for any services rendered prior to this termination not theretofore paid. This compensation shall be reduced by the amount of additional costs that will be incurred by University by reason of this termination.
- B.** If there is more than one Design Professional performing services under this Agreement, and any one of them dies or becomes incapacitated, and the others continue to render the services covered herein ("Surviving Design Professional(s)"), University will make payments to those Surviving Design Professionals who are continuing to provide services hereunder, as though there had been no such death or incapacitation, provided that if the University deems it necessary to assign this Agreement to any Surviving Design Professional(s) or to any new entity, whether or not formed as a result of the afore-mentioned death or incapacitation, Surviving Design Professional(s) shall assist and cooperate with the University to bring such assignment to fruition; University will not be obliged to take any account of the person who died or became incapacitated, or to make any payment to this person or this person's estate. These provisions shall apply in the event of progressive or simultaneous occasions of death or incapacitation among any group of persons named as Design Professional herein. If death or incapacitation befalls the last member of this group before the services under this Agreement are fully performed, then the rights set forth under subparagraph 15.1.A shall apply.

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

- A.** If University determines that Design Professional has failed to perform in accordance with this Agreement, University may terminate all or part of the Agreement for cause. This termination shall be effective if Design Professional does not cure its failure to perform within 10 days (or more, if authorized in writing by University) after receipt of a notice of intention to terminate from University specifying the failure in performance. If a termination for cause does occur, University will have the right to withhold monies otherwise payable to Design Professional until the Project is completed. If University incurs additional costs, expenses, or other damages due to the failure of Design Professional to properly perform pursuant to the Agreement, these costs, expenses, or other damages shall be deducted from the amounts withheld. Should the amounts withheld exceed the amounts deducted, the balance will be paid to Design Professional upon completion of the Project. If the costs, expenses, or other damages incurred by University exceed the amounts withheld, Design Professional shall be liable to University for the difference.
- B.** University may terminate this Agreement for convenience at any time upon written notice to Design Professional, in which case University will pay Design Professional in full for all services performed and all expenses incurred under this Agreement up to and including the effective date of termination. In ascertaining the services actually rendered to the date of termination, consideration will be given to both completed Work and Work in progress, whether delivered to University or in the possession of Design Professional, and to authorized Reimbursable Expenses. No other compensation will be payable for anticipated profit on unperformed services.
- C.** Design Professional may terminate this Agreement for cause if University fails to cure a material default in performance within a period of 30 days, or such longer period as Design Professional may allow, after receipt from Design Professional of a written termination notice specifying the default in performance. In the event of termination for cause by Design Professional, University will pay Design Professional in accordance with subparagraph 16.B.

IN WITNESS WHEREOF, the UNIVERSITY and the DESIGN PROFESSIONAL have executed this Agreement on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DESIGN PROFESSIONAL:

By: \_\_\_\_\_  
(Type or Print Name)

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

DESIGN PROFESSIONAL ADDRESS

DESIGN PROFESSIONAL FACSIMILE NUMBER

DESIGN PROFESSIONAL TELEPHONE NUMBER

EMPLOYER IDENTIFICATION NUMBER

UNIVERSITY:

UNIVERSITY OF CALIFORNIA, MERCED

By: Michael McLeod

Title: Associate Vice Chancellor  
Physical Operations, Planning and Development

Signature: \_\_\_\_\_

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

UNIVERSITY ADDRESS

University of California Merced  
Attn: Construction  
5200 N. Lake Rd  
Merced, CA 95340

UNIVERSITY TELEPHONE NUMBER

209-201-8174

## EXHIBITS – TABLE OF CONTENTS

1. Exhibit A: Design Professional's Scope of Services & Payment Schedule
2. Exhibit B: Design Professional's Rate Schedule for Additional Services
3. Exhibit C: Authorization for Additional Services by the Design Professional

4. Exhibit D: Amendment of the Executive Design Agreement
5. Exhibit E: Certificate of Insurance
6. Exhibit F: Requirements for Services Under EDPA Lite Subject to California Labor Code Sections 1770, Et. Seq.
7. Exhibit G: Report of Subconsultant Information
8. Exhibit H: Final Distribution of Contract Dollars
9. Exhibit I: Self-Certification

## EXAMPLE OF EXHIBIT A

### DESIGN PROFESSIONAL'S SCOPE OF SERVICES & PAYMENT SCHEDULE

Exhibit A to EDPA Lite between the University and \_\_\_\_\_ (Design Professional), dated \_\_\_\_\_.

Facility: \_\_\_\_\_

Project Name: \_\_\_\_\_

Project No.: \_\_\_\_\_

Pursuant to the Agreement referenced above, Design Professional's scope of services under this Agreement shall be as follows:

[Supply indicated information for each category of services, below, which is to be provided by Design Professional under this Agreement]

**1. Feasibility Studies**, which are further described as follows:

[Describe scope of Feasibility Studies to be provided, including detailed description of deliverables. If attaching description from Design Professional's proposal, do not include contractual terms and conditions from same proposal, which can conflict with terms and conditions in the University's attached Agreement.]

[If Feasibility Studies are not applicable, state Not Applicable]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Compensation for these services payable by University shall not exceed: \$ \_\_\_\_\_ ("NTE #1 Amount")
- Compensation for these services shall be [choose one:]
  - on a lump-sum fee basis \_\_\_\_; or
  - on an hourly rate basis in accordance with the hourly rates in Exhibit B \_\_\_\_.
- Design Professional shall invoice for these services no more frequently than once per calendar month, and in accordance with the NTE #1 Amount above, and the Payment Schedule in Section 8.1 below.

**2. Programming**, which is further described as follows:

[Describe scope of Programming services to be provided, including detailed description of deliverables. If attaching description from Design Professional's proposal, do not include contractual terms and conditions from same proposal, which can conflict with terms and conditions in the University's attached Agreement.]

[If Programming is not applicable, state Not Applicable]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Compensation for these services payable by University shall not exceed: \$ \_\_\_\_\_ ("NTE #2 Amount")
- Compensation for these services shall be [choose one:]
  - on a lump-sum fee basis \_\_\_\_; or
  - on an hourly rate basis in accordance with the hourly rates in Exhibit B \_\_\_\_.
- Design Professional shall invoice for these services no more frequently than once per calendar month, and in accordance with the NTE #2 Amount above, and Payment Schedule in Section 8.2 below.

**3. Conceptual Studies**, which are further described as follows:

[Describe scope of Conceptual Studies to be provided, including detailed description of deliverables. If attaching description from Design Professional's proposal, do not include contractual terms and conditions from same proposal, which can conflict with terms and conditions in the University's attached Agreement.]

[If Conceptual Studies are not applicable, state Not Applicable]

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- Compensation for these services payable by University shall not exceed: \$ \_\_\_\_\_ ("NTE #3 Amount")
- Compensation for these services shall be [choose one:]
  - on a lump-sum fee basis \_\_\_\_; or

- on an hourly rate basis in accordance with the hourly rates in Exhibit B \_\_\_\_.
- Design Professional shall invoice for these services no more frequently than once per calendar month, and in accordance with the NTE #3 Amount above, and the Payment Schedule in Section 8.3 below.

4. **Pre-Schematic Design Work**, which is further described as follows:

[Describe scope of Pre-Schematic Design Work to be provided, including detailed description of deliverables. If attaching description from Design Professional's proposal, do not include contractual terms and conditions from same proposal, which can conflict with terms and conditions in the University's attached Agreement.]

[If Pre-Schematic Design Work is not applicable, state Not Applicable]

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- Compensation for these services payable by University shall not exceed: \$\_\_\_\_\_ ("NTE #4 Amount")
- Compensation for these services shall be [choose one:]
  - on a lump-sum fee basis\_\_\_\_; or
  - on an hourly rate basis in accordance with the hourly rates in Exhibit B \_\_\_\_.
- Design Professional shall invoice for these services no more frequently than once per calendar month, and in accordance with the NTE #4 Amount above, and the Payment Schedule in Section 8.4 below.

5. **Full Basic Services**, as set forth in Article 2.8 of the Agreement, which are further described as follows:

[If Full Basic Services are not applicable, state Not Applicable]

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- Compensation for these services payable by University shall not exceed: \$\_\_\_\_\_ ("NTE #5 Amount")
- Payment shall be in accordance with the NTE #5 Amount above, and the Payment Schedule in Section 8.5 below.

6. **Other Services**, which are described as follows:

[Describe scope of Other Services to be provided, including detailed description of deliverables. If attaching description from Design Professional's proposal, do not include contractual terms and conditions from same proposal, which can conflict with terms and conditions in the University's attached Agreement. "Other Services" must be the type of professional design services that are normally associated with this type of design professional, and for which the Design Professional is licensed and qualified to perform.]

[If Other services are not applicable, state Not Applicable]

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- Compensation for these services payable by University shall not exceed: \$\_\_\_\_\_ ("NTE #6 Amount")
- Compensation for these services shall be [choose one:]
  - on a lump-sum fee basis\_\_\_\_; or
  - on an hourly rate basis in accordance with the hourly rates in Exhibit B \_\_\_\_.
- Design Professional shall invoice for these services no more frequently than once per calendar month, and in accordance with the NTE #6 Amount above, and the Payment Schedule in Section 8.6 below. For lump-sum fee services, Design Professional shall obtain prior University approval for the percentage complete to be billed under each invoice.

7. **Additional Services:** At the time of entering into this Agreement, the University and Design Professional agree that the following services, which are either identified in Article 3 of the Agreement as Additional Services, or are hereby agreed to be Additional Services, shall be provided by the Design Professional:

[List and describe Additional Services to be provided, including detailed description of any deliverables. If attaching description from Design Professional's proposal, do not include contractual terms and conditions from same proposal, which can conflict with terms and conditions in the University's attached Agreement.]

[If Additional Services are not applicable at this time, state Not Applicable at This Time]

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- Compensation for these services payable by University shall not exceed: \$\_\_\_\_\_ ("NTE #7 Amount")
- Compensation for these services shall be:
  - on a lump-sum fee basis\_\_\_\_;
  - or
- Design Professional shall invoice for these services no more frequently than once per calendar month, and in



accordance with the NTE #7 Amount above, and the Payment Schedule in Section 8.7 below. For lump-sum fee services, Design Professional shall obtain prior University approval for the percentage complete to be billed under each invoice.

**In connection with the above-described scope of services, Design Professional shall be required to provide the Basic Services identified in Article 2.8 of Agreement, which include Sections 2.8 A. Preliminary Phase design services, 2.8 B. Construction Documents & Bidding Phase services, 2.8 C. Estimates of Construction Cost, and 2.8 D. Construction Phase services (as needed or requested).**

8. **Payment Schedule:**

If Compensation is to be on an hourly rate basis as provided in Item #1 above, then Design Professional's invoices and corresponding compensation shall be limited to the percentages indicated in the table above, as those percentages are applied to the NTE #1 Amount. For lump-sum fee services, Design Professional shall obtain prior University approval for the percentage complete to be billed under each invoice.

8.1 Payment Schedule for Full Basic Services:

For the Scope of Services described as Full Basic Services, in item #5 above, the Payment Schedule shall be as follows:

<b><u>Phase or Stage Completed</u></b>	<b><u>Portions of Fees for Full Basic Services to be Paid at Completion</u></b>
Preliminary Phase	25%
Construction Documents & Bidding Phase	Increase to 50%
At 50% Construction Phase	Increase to 75%
At Substantial Completion	Increase to 95%
Receipt of Design Professional's Record Documents	Increase to 100%

Design Professional shall obtain prior University approval for the percentage complete to be billed under each invoice.

8.6 Payment Schedule for Other Services:

For the Scope of Services described as Other Services, in item #6 above, the Payment Schedule shall be as follows:

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8.7 Payment Schedule for Additional Services:

For the Scope of Services described as Additional Services, in item #7 above, the Payment Schedule shall be as follows:

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**Design Professional's invoices shall include a description of the services performed in the applicable period for which compensation is sought together with the calculation of the amount of fees and an itemization of the costs claimed in accordance with approved rates and the NTE amounts indicated above. Those NTE amounts shall not be exceeded without written amendment to this Agreement in the form of Exhibit D.**

### **EXAMPLE OF EXHIBIT B**

### **DESIGN PROFESSIONAL'S RATE SCHEDULE FOR ADDITIONAL SERVICES**

(DESIGN FIRM NAME)

Additional Services, pursuant to Article 3 under this Agreement, will be compensated in accordance with the following Design Professional's Rate Schedule. No services shall be performed without an approved Exhibit C-Authorization for Additional Services. A lump-sum fee may be established within Exhibit C at the time of authorization. The rates in this schedule may also be used, by prior agreement between University and Design Professionals, for other services to be provided by Design Professional as indicated in Exhibit A, where such services are to be compensated at an hourly rate and not as a lump-sum fee.

[illegible]

## **EXAMPLE OF EXHIBIT C**

for Authorization for Additional Services by the Design Professional pursuant to

EXECUTIVE DESIGN PROFESSIONAL AGREEMENT # {EDPA Lite #}

between

THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

and

{Design Professional}

**PROJECT:** Kolligian Library 3<sup>rd</sup> Floor West Reconfiguration

**1. IN ACCORDANCE WITH ARTICLES 3 YOU ARE HEREBY AUTHORIZED TO PERFORM THE FOLLOWING SERVICES:**

University Representative: Detail the specific services to be performed.

**2. COMPENSATION SHALL BE MADE IN ACCORDANCE WITH ARTICLE 5, AND SHALL NOT EXCEED \$\_\_\_\_\_ OR A LUMP SUM OF \$\_\_\_\_\_.**

**3. SERVICES AUTHORIZED TO BE COMPLETED WITHIN \_\_\_\_\_ DAYS, OR NO LATER THAN \_\_\_\_\_, 20\_\_\_\_.**

This Authorization has been executed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DESIGN PROFESSIONAL:

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

(Type or Print Name)

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

DESIGN PROFESSIONAL ADDRESS

DESIGN PROFESSIONAL TELEPHONE NUMBER

UNIVERSITY:

UNIVERSITY OF CALIFORNIA, MERCED

By: Michael McLeod

Title: Associate Vice Chancellor  
Physical Operations, Planning and Development

Signature: \_\_\_\_\_

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

UNIVERSITY ADDRESS

UNIVERSITY FACSIMILE NUMBER

## **EXAMPLE OF EXHIBIT D**

for the  
AMENDMENT OF THE EXECUTIVE DESIGN AGREEMENT  
between  
THE REGENTS OF THE UNIVERSITY OF CALIFORNIA  
and  
\_\_\_\_\_

dated \_\_\_\_\_, to act as Design Professional to the University of California, Merced, is hereby amended as follows:

1. The term of the Agreement is extended to \_\_\_\_\_.  
(Month, Day, Year)
2. Compensation payable by University under this Agreement, including any Amendments, shall not exceed:  
\$\_\_\_\_\_  
(Amount in Figures)
3. Exhibit B- Design Professional's Rate Schedule for Additional Services is replaced with the revised Exhibit B dated:  
\_\_\_\_\_ and attached herewith.  
(Month, Day, Year)
4. The following provision is added to this Agreement:  
University Representative: Detail the specific provisions.

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

IN WITNESS WHEREOF, the UNIVERSITY and the DESIGN PROFESSIONAL have executed the  
Amendment on the  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DESIGN PROFESSIONAL:

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

(Type or Print Name)

Title: \_\_\_\_\_

Signature: \_\_\_\_\_

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

DESIGN PROFESSIONAL ADDRESS

DESIGN PROFESSIONAL FACSIMILE NUMBER

DESIGN PROFESSIONAL TELEPHONE NUMBER

UNIVERSITY:

UNIVERSITY OF CALIFORNIA, Merced

By: Michael McLeod

Title: Associate Vice Chancellor  
Physical Operations, Planning and Development

Signature: \_\_\_\_\_

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

UNIVERSITY ADDRESS

UNIVERSITY FACSIMILE NUMBER

**EXHIBIT E**  
**INSURANCE CERTIFICATE**

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						DATE ISSUED:		
BROKER/AGENT			<b>COMPANIES AFFORDING COVERAGE</b>					
			COMPANY A					
			COMPANY B					
NAMED INSURED			COMPANY C					
			COMPANY D					
COVERAGES								
<p>This is to certify that policies of insurance listed below have been issued to the insured named above for the policy period indicated. This certificate or verification of insurance is not an insurance policy and does not amend, extend or alter the coverage afforded by the policies listed herein. Notwithstanding any requirement, term or condition of any contract or other document with respect to which this certificate or verification of insurance may be issued or may pertain, the insurance afforded by the policies described herein is subject to all the terms, exclusions and conditions of such policies.</p>								
CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF. DATE (M/D/Y)	POLICY EXP. DATE (M/D/Y)		LIMITS	DEDUCTIBLE	
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL FORM <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE <input type="checkbox"/> SEVERABILITY OF INTEREST CLAUSE <input type="checkbox"/> CROSS LIABILITY CLAUSE				GENERAL AGGREGATE PRODUCTS/COMPLETED OPERATIONS AGGREGATE PERSONAL & ADVERTISING INJURY EACH OCCURRENCE FIRE DAMAGE (ANY ONE FIRE) MEDICAL EXPENSE (ANY ONE PERSON)	\$ \$ \$ \$ \$ \$	\$	
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO (CODE 1) <input type="checkbox"/> ALL OWNED AUTOS (CODE 2) <input type="checkbox"/> SCHEDULED AUTOS (CODE 7) <input type="checkbox"/> HIRED AUTOS (CODE 8) <input type="checkbox"/> NON-OWNED AUTOS (CODE 9) <input type="checkbox"/> OTHER				CSL BODILY INJURY (PER PERSON) BODILY INJURY (PER ACCIDENT) PROPERTY DAMAGE	\$ \$ \$ \$	\$	
	<b>EXCESS LIABILITY</b> <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE				EACH OCCURRENCE \$	AGGREGATE \$		
	<b>PROFESSIONAL LIABILITY*</b> <input type="checkbox"/> CLAIMS MADE <input type="checkbox"/> OCCURRENCE				EACH OCCURRENCE \$	AGGREGATE \$		
	<b>WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY*</b>				<b>AS REQUIRED BY FEDERAL AND CALIFORNIA LAW</b>			
<p>SPECIAL PROVISIONS:</p> <p>*Special Provision #1 and #2 below do not apply to this coverage.</p> <p>1. THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, ITS OFFICERS, AGENTS, EMPLOYEES, CONSULTANTS, REPRESENTATIVES, AND REPRESENTATIVE'S CONSULTANTS ARE INCLUDED AS ADDITIONAL INSURERS BUT ONLY IN CONNECTION WITH <b>900360 Downtown Campus Center</b></p> <p>2. THIS INSURANCE SHALL BE PRIMARY INSURANCE AS RESPECTS THE REGENTS OF THE UNIVERSITY OF CALIFORNIA, ITS OFFICERS, AGENTS, AND EMPLOYEES. ANY INSURANCE OR SELF-INSURANCE MAINTAINED BY THE REGENTS OF THE UNIVERSITY OF CALIFORNIA SHALL BE EXCESS OF AND NONCONTRIBUTORY WITH THIS INSURANCE.</p> <p>3. THE PROVISIONS UNDER PARAGRAPHS (1&amp;2) OF THIS SECTION, "SPECIAL PROVISIONS", SHALL APPLY TO CLAIMS, COSTS, INJURIES OR DAMAGES BUT ONLY IN PROPORTION TO AND TO THE EXTENT SUCH CLAIMS, COSTS, INJURIES, OR DAMAGES ARE CAUSED BY OR RESULT FROM THE NEGLIGENT ACTS OR OMISSIONS OF THE NAMED INSURED.</p>								

4. SHOULD ANY OF THE INSURANCE PROGRAMS DESCRIBED HEREIN BE MATERIALLY MODIFIED OR CANCELED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL MAIL THIRTY (30) DAYS (TEN [10] DAYS FOR NON-PAYMENT OF PREMIUM) WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED BELOW.

CERTIFICATE HOLDER: THE REGENTS OF THE UNIVERSITY OF CALIFORNIA.

FORWARD TO:

Design & Construction  
UNIVERSITY OF CALIFORNIA, MERCED  
5200 N. Lake Rd  
Merced, CA 95343

THE UNDERSIGNED CERTIFIES THAT HE/SHE IS AUTHORIZED TO SIGN THIS CERTIFICATE AND THAT THE SPECIAL PROVISIONS DESCRIBED HEREIN HAVE BEEN MADE A PART OF THE POLICY(IES) SHOWN ABOVE.

AUTHORIZED REPRESENTATIVE

**EXHIBIT F**  
**REQUIREMENTS FOR SERVICES UNDER EDPA LITE**  
**SUBJECT TO CALIFORNIA LABOR CODE SECTIONS 1770, et. Seq.**  
**("PW Services", as defined in Article 11 of the Agreement)**

**E.1.1 PREVAILING WAGE RATES**

**A.** Design Professional shall comply and shall ensure that all Subcontractors, consultants or subconsultants comply with prevailing wage law pursuant to the State of California Labor Code, including but not limited to Sections 1770, 1771, 1771.1, 1772, 1773, 1773.1, 1774, and 1775, 1776, 1777.5, and 1777.6 of the State of California Labor Code. Compliance with these sections is required by this Agreement. The Work under this Agreement is subject to compliance monitoring and enforcement by the State of California Department of Industrial Relations. References to "PW Services" hereinafter shall mean services performed pursuant to the Agreement that are covered by the aforementioned provisions as implemented by the State of California Department of Industrial Relations. To the extent that Design Professional is providing any PW Services under the Agreement, whether through itself or through subcontractors, consultants or subconsultants, Design Professional shall comply with the requirements set forth in this Exhibit F.

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

**E1.2 Payroll Records**

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

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



University shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of Design Professional awarded the Agreement or performing the Agreement shall not be marked or obliterated.

**B.** Design Professional shall file a certified copy of the payroll records with the entity that requested the records within 10 days after receipt of a written request. Design Professional shall inform University of the location of such payroll records for the Project, including the street address, city, and county; and Design Professional shall, within 5 working days, provide notice of change of location of such records. In the event of noncompliance with the requirements of Article 11 of the Agreement and/or this Exhibit F, or with the State of California Labor Code Section 1776, et seq., Design Professional shall have 10 days in which to comply following receipt of notice specifying in what respects Design Professional must comply. Should noncompliance still be evident after the 10-day period, Design Professional shall forfeit to University, as a penalty, \$100 for each day, or portion thereof, for each worker, until strict compliance is accomplished. Such forfeiture amounts may be deducted from the Design Professional's fee.

### **E1.3 Apprentices**

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

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

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

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

**E.** If Design Professional or subcontractors or consultants employ journeyworkers or apprentices in any apprenticeship craft or trade in the area of the Project site, and there exists a fund for assisting to allay the cost of the apprenticeship program in the trade or craft, to which fund or funds other contractors in the area of the Project site are contributing, Design Professional and subcontractors or consultants shall contribute to the fund or funds in each craft or trade in which they employ journeyworkers or apprentices on the PW Services hereunder in the same amount or upon the same basis and in the same manner done by the other contractors. Design Professional may include the amount of such contributions in computing its compensation under the Agreement; but if Design Professional fails to do so, it shall not be entitled to any additional compensation therefore from University.

**F.** In the event Design Professional willfully fails to comply with this Section E1.3, it will be considered in violation of the requirements of the Agreement.

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

#### **E1.4 Work Day**

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

## **EXHIBIT G**

Authorization No.: \_\_\_\_\_

### **REPORT OF SUBCONSULTANT INFORMATION**

Provide the following information for each contracting party including the Design Professional and each subconsultant regardless of tier.\* Attach additional sheets if necessary. If no subconsultants, then enter only the Design Professional's information on the "(Consultant)" line.

1	2	3	4	5				6	
Full Name of Business	Street Address, City, State and ZIP	Telephone No / FAX No	Contact Name	Business categories				Contract Dollars	
				SBE*	DBE*	WBE*	DVBE*	Amount (\$)	Percent (%)
(Consultant)									
(Sub Consultant)									
(Sub Consultant)									
(Sub Consultant)									
Total Contract Amount = \$		Column 6 - Business Categories						SUBTOTALS	
		SBE = Small Business Enterprise						\$	
		DBE = Disadvantaged Business Enterprise						\$	
		WBE = Woman Business Enterprise						\$	
		DVBE = Disable Veteran Business Enterprise						\$	

\*Regardless of tier, a completed Exhibit I: Self-Certification must have been submitted with the Report of Subconsultant Information for each SBE, DBE, WBE, DVBE indicated on this Exhibit.

**EXHIBIT H**  
**FINAL DISTRIBUTION OF CONTRACT DOLLARS**

Provide the following information for each contracting party including the Design Professional and each subconsultant regardless of tier.\* Attach additional sheets if necessary. If no subconsultants, then enter only the Design Professional's information on the "(Consultant)" line.

1	2	3	4	5				6	
Full Name of Business	Street Address, City, State and ZIP	Telephone No / FAX No	Contact Name	Business categories				Contract Dollars	
				SBE*	DBE*	WBE*	DVBE*	Amount (\$)	Percent (%)
(Consultant)									
(Sub Consultant)									
(Sub Consultant)									
(Sub Consultant)									
Total Contract Amount = \$			Column 6 - Business Categories					SUBTOTALS	
			SBE = Small Business Enterprise					\$	
			DBE = Disadvantaged Business Enterprise					\$	
			WBE = Woman Business Enterprise					\$	
			DVBE = Disable Veteran Business Enterprise					\$	

\*Regardless of tier, a completed Exhibit I: Self-Certification must have been submitted with the Final Distribution of Contract Dollars for each SBE, DBE, WBE, DVBE indicated on this Exhibit.

## **EXHIBIT I**

### **SELF-CERTIFICATION**

For the Design Professional and each subconsultant or subcontractor, the following must be completed.

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

<hr/> Initial if applicable	<b>Small Business Enterprise (SBE)</b> - an independently owned and operated concern certified, or certifiable, as small business by the Federal Small Business Administration (SBA). (Size standards by Standard Industrial Classification codes required by the Federal Acquisition Regulations, Section 19.102, may be found at <a href="http://www.sba.gov/content/table-small-business-size-standards">http://www.sba.gov/content/table-small-business-size-standards</a> .) The eligibility requirements for California contracting purposes is on the Department of General Services website at <a href="http://www.dgs.ca.gov/pd/Programs/OSDS/SBEEligibilityBenefits.aspx">http://www.dgs.ca.gov/pd/Programs/OSDS/SBEEligibilityBenefits.aspx</a> . The University may rely on written representation by the vendors regarding their status.
<hr/> Initial if applicable	<b>Disadvantaged Business Enterprise (DBE)</b> - a business concern which is at least 51% owned by one or more socially and economically disadvantaged individuals or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as members of a group without regard to their individual qualities. Economically disadvantaged individuals are those socially disadvantaged individuals whose ability to compete in the free private enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same business area who are not socially disadvantaged. Business owners who certify that they are members of named groups (Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans) are to be considered socially and economically disadvantaged.
<hr/> Initial if applicable	<b>Women-Owned Business Enterprise (WBE)</b> - a business that is at least 51% owned by a woman or women who also control and operate it. "Control" in this context means exercising the power to make policy decisions. "Operate" in this context means being actively involved in the day-to-day management.
<hr/> Initial if applicable	<b>Disabled Veteran Business Enterprise (DVBE)</b> - a business that is at least 51% owned by one or more disabled veterans or, in the case of any publicly owned business, at least 51% of the stock of which is owned by such individuals and whose management and daily business operations are controlled by one or more of such individuals. A Disabled Veteran is a veteran of the military, naval, or air service of the United States with a service connected disability who is a resident of the State of California. To qualify as a veteran with a service connected disability, the person must be currently declared by the United States Veterans Administration to be 10% or more disabled as a result of service in the armed forces.
<hr/> Initial if applicable	<b>None of the above categories apply.</b>

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

**INFORMATION FURNISHED BY:**\_\_\_\_\_  
(Print or Type Name of Owner and/or Principal)\_\_\_\_\_  
(Name of Business or Firm)

a

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

By:

\_\_\_\_\_  
(Print Name)\_\_\_\_\_  
(Title)\_\_\_\_\_  
(Signature)\_\_\_\_\_  
(Date)**PRIVACY NOTICE**

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

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

4852-6420-1007.1