Memorandum:

To: Dr. Raj K. Chopra  
Superintendent / President

From: Nicholas C. A. Alioto, CPA  
Vice President of Business & Financial Affairs

Date: November 16, 2009

Re: Prop R Program Manager Contract

The attached version of the contract for the above referenced item incorporates a number of amendments that are grammatical and also a few that provide the District with more flexibility and/or contract rights.

A partial identification of changes follows:

- Page 4, Article 0, Definitions – added definitions for GMP and Total Program Cost.
- Page 5, Article 3 – “will authorize” to “may authorize” extensions to the contract so that it is clearly at our sole discretion.
- Page 7, Article 5, number 7 – “excluding outreach consultant” so that we do not have to pay any mark-up on this.
- Page 10, Article 6, number 7 – deleted second sentence where the OWNER was prohibited from communicating with contractors.
- Page 11, Article 6, number 17 – delete the word “précis” and insert word “documents” as no one knows what “précis” is.
- Page C-1, Staffing Plan – a number of positions were deleted and/or changed to “TBD” so that we are not committed to fund positions that may not be necessary right upfront in the program. In addition, we added the program schedule.

I apologize for submitting these changes late but felt compelled to make sure this contract was as good as it could get for the District.
PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES
BY AND BETWEEN
SEVILLE CONSTRUCTION SERVICES
AND THE
SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
# TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>ARTICLE</th>
<th>DESCRIPTION</th>
<th>PAGE</th>
</tr>
</thead>
<tbody>
<tr>
<td>0</td>
<td>Definitions</td>
<td>2</td>
</tr>
<tr>
<td>1</td>
<td>Responsibilities and Services of Program Manager</td>
<td>4</td>
</tr>
<tr>
<td>2</td>
<td>Program Manager Staff</td>
<td>4</td>
</tr>
<tr>
<td>3</td>
<td>Schedule of Work</td>
<td>5</td>
</tr>
<tr>
<td>4</td>
<td>Master Budget and Construction Cost Budget</td>
<td>6</td>
</tr>
<tr>
<td>5</td>
<td>Fee and Method of Payment</td>
<td>6</td>
</tr>
<tr>
<td>6</td>
<td>Payment for Extra Services or Changes</td>
<td>8</td>
</tr>
<tr>
<td>7</td>
<td>Ownership of Data</td>
<td>8</td>
</tr>
<tr>
<td>8</td>
<td>Termination of Contract</td>
<td>8</td>
</tr>
<tr>
<td>9</td>
<td>Indemnity Clause</td>
<td>9</td>
</tr>
<tr>
<td>10</td>
<td>Responsibilities of the Owner</td>
<td>9</td>
</tr>
<tr>
<td>11</td>
<td>Liability of Owner</td>
<td>12</td>
</tr>
<tr>
<td>12</td>
<td>Insurance</td>
<td>12</td>
</tr>
<tr>
<td>13</td>
<td>Nondiscrimination</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>Entire Agreement/Modification</td>
<td>13</td>
</tr>
<tr>
<td>15</td>
<td>Non-Assignment of Agreement</td>
<td>13</td>
</tr>
<tr>
<td>16</td>
<td>Law, Venue</td>
<td>13</td>
</tr>
<tr>
<td>17</td>
<td>Alternative Dispute Resolution</td>
<td>14</td>
</tr>
<tr>
<td>18</td>
<td>Severability</td>
<td>14</td>
</tr>
<tr>
<td>19</td>
<td>Employment Status</td>
<td>14</td>
</tr>
<tr>
<td>20</td>
<td>Representation &amp; Warranties by Program Manager</td>
<td>14</td>
</tr>
<tr>
<td>21</td>
<td>Cost Disclosure - Documents and Written Reports</td>
<td>15</td>
</tr>
<tr>
<td>22</td>
<td>Communications</td>
<td>15</td>
</tr>
<tr>
<td>23</td>
<td>Disabled Veteran Business Enterprise Participation</td>
<td>15</td>
</tr>
<tr>
<td>24</td>
<td>Other Provisions</td>
<td>15</td>
</tr>
</tbody>
</table>

Exhibit "A" Responsibilities and Services of Program Manager... A-1
Exhibit "B" Criteria and Billing for Extra Services... B-1
Exhibit "C" Staffing Plan / Fee Schedule... C-1
Exhibit "D" Insurance... D-1
AGREEMENT FOR PROGRAM AND CONSTRUCTION MANAGEMENT SERVICES RELATED TO OWNER'S BOND PROGRAM

This Agreement for Program and Construction Management Services is entered into this 19th day of November in the year 2009, ("Effective Date") between the SOUTHWESTERN COMMUNITY COLLEGE DISTRICT, hereinafter called the OWNER, and SEVILLE CONSTRUCTION SERVICES, INC., hereinafter called the PROGRAM MANAGER.

RECITALS

WHEREAS, the OWNER desires to obtain program and construction management services for the "Capital Improvement Proposition" of existing facilities (hereinafter referred to as "PROJECT" or "PROJECTS") in accordance with the OWNER'S Proposition "AA", and Proposition R General Obligation Bond Program's (hereinafter referred to collectively as the "BOND PROGRAM"); and

WHEREAS, the PROGRAM MANAGER is fully qualified to provide program and construction management services; and

WHEREAS, Proposition "AA", and Proposition R General Obligation Bond Program funds have been allocated to repair, improve, and build more facilities OWNER, but also to fund necessary activities to secure any eligible funding including, but not limited to, matching State funds, hardship funds, energy management funds, and others; and

WHEREAS, due to the fact that the OWNER anticipates applying for all eligible State funding in the future, but since neither the OWNER nor the PROGRAM MANAGER can assess the exact amount of the State funding the OWNER will receive and when it will become available, the Total BOND PROGRAM Budget may vary based on certain factors including but not limited to, the following:

a. The OWNER receiving additional eligible funding including, but not limited to, matching State funds, energy management funds, and others;

b. The OWNER'S Board of Trustees approving the use of funds from future OWNER bond funding sources not currently identified at this time;

c. The OWNER not receiving any additional State funding; and

WHEREAS, the OWNER and the PROGRAM MANAGER agree to incorporate the terms, conditions and requirements of the OWNER'S Request for Proposals (RFP), dated September 3, 2009, to the fullest extent possible. However, to the extent that there are any conflicts or any ambiguities created between the terms of the RFP and this Agreement, the terms of this Agreement shall take precedence and shall govern.
NOW, THEREFORE, in consideration of the promises and covenants contained herein and other valuable consideration, the sufficiency and receipt of which is hereby acknowledged by the parties, it is mutually agreed by and between the undersigned as follows:

AGREEMENT

ARTICLE 0. - DEFINITIONS

0.1. In addition to the definitions above, the following definitions for words and/or phrases shall apply when used in this Agreement, including all Exhibits:

0.1.1. **Agreement:** The Agreement consists exclusively of this document and all identified exhibits thereto.

0.1.2. **As-Built Drawings ("As-Builts"):** A final set of drawings prepared by the Project Architects that incorporates all changes from all Record Drawings, sketches, details, and clarifications.

0.1.3. **Bid Set:** The plans, drawings, and specifications at the end of the Construction Phase that DSA has approved and that the OWNER can use to go out to bid for construction of Project.

0.1.4. **Construction Cost Budget:** The total cost to OWNER, at time of bid, of all elements of a Project, as adjusted at the end of each design phase for a Project in accordance with this Agreement. The Construction Cost Budget does not include the compensation of the Master Architect, the Project Architects, the PROGRAM MANAGER, the Construction Managers, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the OWNER.

0.1.5 Construction Documents: All documents necessary for the construction of a Project including, but not limited to, Contractor’s contract with the DISTRICT, plans, specifications, general and supplementary conditions, addenda and all other documents listed in the Contractor’s contract with the DISTRICT.

0.1.6. **Consultant(s):** Any and all consultant(S), sub-consultant(s), subcontractor(s), or agent(s) to the Program Manager.

0.1.7. **Construction Managers:** Construction Managers, other than Seville Construction Services, Inc., retained by the OWNER to provide construction management services for individual Projects.
0.1.8. **Contractors:** The construction contractors retained by the OWNER for the individual Projects:

0.1.9. **Design Professionals:** The Master Architect, the Project Architects, and other firms providing similar design/engineering-related services.

0.1.10. **DSA:** The Division of the State Architect.

0.1.11. **Master Architect:** The architect retained by the OWNER to provide master architectural services for the Program.

0.1.12 **Extra Services:** Any Services beyond the Scope of Services provided for in this Agreement which the OWNER directs PROGRAM MANAGER in writing to perform.

0.1.13. **Master Budget:** The total cost to the OWNER of all elements of the Program including compensation of Master Architect, the Project Architects, the Construction Managers, the PROGRAM MANAGER, and all specialty sub-consultants, fees, permits, contingencies, and allowances. The Master Budget shall also include all construction costs for each Project which shall be the Construction Cost Budget. The Construction Cost Budget shall be a subcategory of the Master Budget. The Master Budget does not include the costs of land, rights-of-way, financing, OWNER staff labor, or other related costs that are the responsibility of the OWNER.

0.1.14. **Master Plan:** The Master Plan for the Program as provided by the OWNER’s Master Architect.

0.1.15. **Project:** Any individual School Project listed on Appendix 1 to Exhibit "A" plus three additional projects as identified by the OWNER.

0.1.16. **Project Architects:** Architects of record retained by the OWNER to provide design for particular Projects.

0.1.17. **Record Drawings:** Any document prepared and submitted by OWNER contractor(s) that record the changes made during the construction project on a Conforming Set including changes necessitated by change orders.

0.1.18. **Service(s):** All labor, materials, supervision, services, tasks, and work that the PROGRAM MANAGER is required to perform and that are required by, or reasonably inferred from, the Agreement.
0.1.19. **Visually Verify**: To verify to the fullest extent possible by physical inspection and reasonable investigation and without any destructive action.

0.1.20. **Work**: Includes all labor, materials and equipment necessary for the Contractor to fulfill all of its obligations pursuant to the Construction Documents to complete a Project.

0.1.21. **Working Days**: OWNER non-certificated staff working days.

0.1.22. **Guaranteed Maximum Price (GMP)**: The total maximum fee to be paid to **PROGRAM MANAGER** for all services performed under this agreement, excluding reimbursable expenses, and is based upon a percentage of the Total Program Costs.

0.1.23. **Total Program Costs**: The hard construction costs; the soft costs that include fees and costs for professional services and construction management and include Proposition R, any additional state matching funds, joint use money and grant money.

ARTICLE 1. - RESPONSIBILITIES AND SERVICES OF PROGRAM MANAGER

1. **Scope**: **PROGRAM MANAGER** shall provide the services described herein and under Exhibit "A" for the Project. The parties agree that the **PROGRAM MANAGER'S** services described herein are based on Program Management and Construction Management typical services.

2. **Coordination**: In the performance of **PROGRAM MANAGER'S** Services under this Agreement, **PROGRAM MANAGER** agrees that it will maintain such coordination with **OWNER** personnel and/or its designated representatives as may be requested and desirable.

3. **PROGRAM MANAGER'S Services**: **PROGRAM MANAGER** shall act as the **OWNER's** agent to render the Services and furnish the scope of work as described in Exhibit "A," commencing with receipt of a written Notice to Proceed signed by the **OWNER** representative. **PROGRAM MANAGER'S Services** will be completed in accordance with the schedule attached to Exhibit "C".

ARTICLE 2. - PROGRAM MANAGER STAFF

1. The **PROGRAM MANAGER** has been selected to perform the work herein because of the skills and expertise of key individuals currently employed by **PROGRAM MANAGER**.
2. The **PROGRAM MANAGER** agrees that the following key people in **PROGRAM MANAGER’S firm** shall be associated with the Project in the following capacities:

   Program Manager: Henry Amigable

3. The **PROGRAM MANAGER** agrees to staff the Program in accordance with the Staffing Plan attached hereto as Exhibit "C". This plan will be submitted for District approval quarterly. The names to be provided with District approval of individuals being assigned.

4. Unless the individuals listed in paragraph 2 above cease to be employed by the **PROGRAM MANAGER**, the **PROGRAM MANAGER** shall not change any of the key personnel listed above without prior written approval by **OWNER**, which approval shall not be unreasonably withheld. In either case, **OWNER** shall be allowed to interview and approve replacement personnel.

5. If any designated lead or key person fails to perform to the satisfaction of the **OWNER**, then **OWNER** shall give written notice of the performance issues relating to the designated lead or key person to the **PROGRAM MANAGER**, whereupon, said lead or key person shall have fourteen (14) days to cure said performance issues. Should said lead or key person fail to cure said performance issues, the **OWNER** shall provide written notice to **PROGRAM MANAGER** of said lead or key person’s failure to cure and upon receipt of such written notice the **PROGRAM MANAGER** shall immediately remove that person from the Project and provide a temporary replacement, **PROGRAM MANAGER** shall within twenty (20) work days provide a permanent replacement person acceptable to the **OWNER**.

6. **PROGRAM MANAGER** represents that the **PROGRAM MANAGER** has no existing interest and will not acquire any interest, direct or indirect which could conflict in any manner or degree with the performance of services required under this Agreement and that no person having any such interest shall be employed by **PROGRAM MANAGER**.

**ARTICLE 3. SCHEDULE OF WORK**

The **PROGRAM MANAGER** shall commence work under this Agreement upon receipt of a Notice to Proceed and shall prosecute the work diligently as described in Exhibit "A" in accordance with the schedule attached to Exhibit "C". **PROGRAM MANAGER** shall be entitled to additional time and services to complete its work for delays caused by action or inaction of **OWNER** or other delays beyond **PROGRAM MANAGER’S** reasonable control. The AGREEMENT shall be for 5 years, additional extensions may be authorized by the Superintendent/President or his Designee.
ARTICLE 4.  - MASTER BUDGET AND CONSTRUCTION COST BUDGET

1. **OWNER'S** Master Program Budget. In accordance with Exhibit "A", the **PROGRAM MANAGER** shall have responsibility to further develop, review, and reconcile the Master Budget for the **OWNER** at the beginning of the Program and at the completion of each design phase for each Project.

2. **PROGRAM MANAGER** shall work with the **OWNER** and the Project Architect to establish construction budget and construction project scope to establish the Construction Cost Budget for each Project in conformance with the Master Budget.

   **PROGRAM MANAGER** shall work cooperatively with the Project Architects and Construction Managers (if applicable) during the Master Planning Phase, the Pre-Design, Schematic Design Phase, Design Development Phase, and Construction Documents Phase, as described in Exhibit "A," so that the construction cost for each Project will not exceed the Construction Cost Budget, for that Project as adjusted subsequently with the **OWNER'S** written approval.

   Evaluations of the **OWNER's** Master Budget, Construction Cost Budget, and preliminary and detailed cost estimates prepared by the **PROGRAM MANAGER**, represent the **PROGRAM MANAGER'S** best judgment as a professional familiar with the construction industry.

3. The Construction Cost Budget shall be the total cost to **OWNER** of all elements of a Project designed or specified by the Project Architect. The Construction Cost Budget does not include the compensation of the **PROGRAM MANAGER**, the Project Architects, sub-consultants, the cost of the land, rights-of-way, financing or other costs which are the responsibility of the **OWNER**.

4. The Construction Cost Budget for a Project will be established by the **PROGRAM MANAGER** with the **OWNER** and the Project Architects, as part of its Services in the Pre-design and Master Planning phases as described on Exhibit "A." This cost includes building construction cost ("hard costs") and allowed design contingencies.

5. The Construction Cost Budget for a Project shall be reconciled by the **PROGRAM MANAGER** with the Master Budget and the **PROGRAM MANAGER'S** Construction Cost Estimate and adjusted at the completion of each design phase.

ARTICLE 5.  - FEE AND METHOD OF PAYMENT

1. **OWNER** shall pay **PROGRAM MANAGER** the fees provided for in the Fee Proposal attached to Exhibit "C".
2. **PROGRAM MANAGER** shall bill its work under this Agreement on a monthly time and materials basis in accordance with the Fee Proposal attached to Exhibit “C”.

3. The District has the right to suspend the Program with 30 days notice, the program manager will be paid for services performed to date and for any demobilization costs within that 30 days.

4. The **PROGRAM MANAGER’S** fee set forth in this Agreement shall be full compensation for all of **PROGRAM MANAGER’S** base labor for Services performed and specified as an estimate in Exhibit “C.” The **PROGRAM MANAGER’S** reimbursable expenses incurred in the performance hereof, including, without limitation, all costs for personnel, travel, offices, printing of deliverables providing and/or shipping of deliverables or any other items, per diem expenses, any other direct or indirect expenses incident to providing the Services, and any other items specified as an estimate in Exhibit “C”.

5. Reimbursable expenses shall be billed at 105% of **PROGRAM MANAGER’S** actual costs. Allowable reimbursable expenses exceeding $250 shall be presented to the **OWNER** for prior approval, and shall include: telephone service (but not including monthly telephone bills), office equipment, office supplies and furnishings, postage, hard hats, first aid equipment, project signage, and other items required to be approved by the **OWNER**. **OWNER** shall provide a central office for **PROGRAM MANAGER**. **OWNER** may provide job site trailers, with necessary appurtenances, or it may request that **PROGRAM MANAGER** provide same, in which those costs shall be charged to **OWNER** as reimbursable expenses; an estimate of these reimbursable expenses are specified in Exhibit “C”.

6. Hourly rates of **PROGRAM MANAGER’S** staff the will be escalated 3% on a yearly basis.

7. Any invoices submitted by sub-consultants that have been requested and approved by the **OWNER** to be contracted through the **PROGRAM MANAGER** will be marked up 10% of their invoice amount excluding Outreach Consultant.

8. Total compensation to be paid to the **PROGRAM MANAGER** will not exceed 2.725% of the total program costs when expended including any additional state matching funds, joint use money, grant money or miscellaneous funds which increase the total program costs in accordance with Exhibit “C”.

9. Proposition AA Program and Construction management services as requested by the District will not be part of Proposition R guaranteed maximum price. These services will be billed at a Guaranteed maximum percentage of 2.725% of the remaining Proposition AA funds in accordance with the hourly rates of Exhibit C.
ARTICLE 6. - PAYMENT FOR EXTRA SERVICES OR CHANGES

The OWNER shall, in a timely manner, make payment of PROGRAM MANAGER’S invoices for services and expenses within 30 days of the invoice receipt by the OWNER but not more than 45 days of such receipt. OWNER failure to make payment after 90 days shall be grounds for PROGRAM MANAGER to suspend services until such payments are made.

1. Any charges for extra or additional services or changes to this Agreement shall be paid by the OWNER as described in Exhibit "B" only upon certification that the claimed extra or additional or changed services were authorized in writing in advance by the OWNER.

2. The District may require the services for Construction management and will contract for these services with the Program manager outside of the GMP at the hourly rates listed on Exhibit C

ARTICLE 7. - OWNERSHIP OF DATA

After Completion of each Project or after termination of this Agreement in accordance with the terms hereof, PROGRAM MANAGER shall deliver to OWNER a complete set of Project records, including without limitation all documents generated by PROGRAM MANAGER, copies of all documents exchanged with or copied to or from all other Project participants, and all closeout documents. Said Project records shall be indexed and appropriately organized for easy use by OWNER personnel.

ARTICLE 8. - TERMINATION OF CONTRACT

1. Termination for Default. If PROGRAM MANAGER fails to perform PROGRAM MANAGER’S material duties and obligations as required herein under this Agreement, or if PROGRAM MANAGER violates any of the material terms or provisions of this Agreement and fails to cure such material default within 60 (sixty) days of receipt of written notice from the OWNER, or if the default cannot be cured within such 60 (sixty) day period, PROGRAM MANAGER commences to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from OWNER, the OWNER shall have the right to terminate this Agreement effective immediately upon the OWNER giving written notice of PROGRAM MANAGER’S failure to cure to the PROGRAM MANAGER.

2. Termination for Convenience. The OWNER shall also have the right in its sole discretion to terminate the Agreement for its own convenience upon five (5) days written notice to PROGRAM MANAGER. Termination shall have no effect upon any of the rights and obligations of the parties arising out of any transaction occurring prior to the effective date of such termination. OWNER shall be responsible to pay the PROGRAM MANAGER for all labor and expenses related to the termination for up to 60 (sixty) days following the receipt of written notice. PROGRAM MANAGER shall make every effort to expedite termination and minimize the costs to the OWNER provided that in addition, the
DISTRICT shall reimburse the PROGRAM MANAGER for all demobilization expenses and compensates for any actual obligations beyond the period including such third party obligations.

3. PROGRAM MANAGER'S Right of Termination for Default. If the OWNER fails to perform its material duties and obligations as required under this Agreement and fails to cure such material default within 60 (Sixty) days of receipt of written notice of such default, or if the default cannot be cured within said 60 (Sixty) days, the PROGRAM MANAGER shall have the right to terminate this Agreement effective immediately upon the PROGRAM MANAGER giving written notice of OWNER'S failure to cure to the OWNER. Such termination shall be effective after receipt of written notice from PROGRAM MANAGER to the OWNER.

4. OWNER retains the right to terminate pursuant to the terms of this Agreement, either for convenience or for default, PROGRAM MANAGER'S Services with respect to any individual Project, or with respect to all Services provided by PROGRAM MANAGER under this Agreement. PROGRAM MANAGER agrees to continue to perform all non-terminated portions of this Agreement in that case, and the Parties agree that PROGRAM MANAGER'S compensation shall be adjusted accordingly.

ARTICLE 9. - INDEMNITY CLAUSE

PROGRAM MANAGER agrees to indemnify, defend and hold harmless the District, its officers, agents and employees from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts or omissions of the PROGRAM MANAGER in the negligent performance of this Contract. The District agrees to indemnify, defend and hold harmless PROGRAM MANAGER from any and all liability, claims and losses accruing or resulting to any and all contractors, suppliers, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the negligent performance of this Contract, and from any and all liability, claims and losses accruing or resulting to any person, firm or corporation who may be injured (including death) or damaged by the acts of omissions of the District in the negligent performance of this Contract.

ARTICLE 10. - RESPONSIBILITIES OF THE OWNER

The OWNER shall examine the documents submitted by the PROGRAM MANAGER and shall render decisions so as to avoid unreasonable delay in the process of the PROGRAM MANAGER'S Services as follows:
1. The **OWNER** shall provide to the **PROGRAM MANAGER** complete and updated information regarding the **OWNER'S** requirements for the Program.

2. The **OWNER** shall furnish legal, accounting, contract review and insurance counseling services as may be necessary to protect the **OWNER'S** interests.

3. If the **OWNER** observes or otherwise becomes aware of any fault or defect in the Project or the **PROGRAM MANAGER'S** Services, or any nonconformity with the Contract Documents, the **OWNER** shall give prompt written notice thereof to the **PROGRAM MANAGER**; failure to give such notice shall not be deemed to be a waiver.

4. The **OWNER** shall retain Design Professionals and other Consultants (if applicable) whose services, duties and responsibilities shall be described in a written agreement between the **OWNER** and Design Professionals, Construction Managers, and/or Consultants. The terms and conditions of the Agreement between the **OWNER** and Design Professionals, Construction Managers, and/or Consultants shall not be changed without written notification to the **PROGRAM MANAGER**. The **OWNER** shall furnish a copy of the **OWNER**-Architect and Consultant agreement(s) and any amendments to the **PROGRAM MANAGER**, that designate the contractual responsibilities of all parties.

5. At the request of the **PROGRAM MANAGER**, sufficient copies of the Contract Documents shall be furnished to the **PROGRAM MANAGER** to permit the timely performance of services, by the **OWNER** at the **OWNER'S** expense.

6. The **OWNER** shall, in a timely manner secure, submit and pay for necessary approvals, easements, assessments, permits and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities, subject to **PROGRAM MANAGER'S** and/or the Design Professional(s) duties to recommend or provide same.

7. The **OWNER**, its representatives and consultants shall communicate all official instructions with the Contractor through the **PROGRAM MANAGER**.

8. The **OWNER** shall send to the **PROGRAM MANAGER** and shall require the Design Professionals to send to the **PROGRAM MANAGER**, copies of all notices communications sent to or received by the **OWNER** or Design Professionals, Construction Managers or other Consultants relating to a Project. During the Construction Phase of the Projects, the **OWNER** shall require that the Contractors and Construction Managers (if applicable) submit all notices and communication relating to the Projects directly to the **PROGRAM MANAGER**.

9. The **OWNER** shall designate an officer, employee or other authorized representatives to act in the **OWNER'S** behalf with respect to the Project. The **OWNER'S** representative for the Project shall be available during working hours
and as often as may be required to render decisions and to furnish information in a timely manner.

10. For all Projects on which PROGRAM MANAGER is acting as Construction Manager, OWNER shall conduct its own independent review and evaluation of PROGRAM MANAGER'S performance with respect to PROGRAM MANAGER'S construction management duties.

11. OWNER shall provide timely and accurate accounting information and project expenditures for all projects within this Program and covered under this Agreement in order for PROGRAM MANAGER to provide OWNER required reports.

12. OWNER shall require other OWNER Consultants to use web-based collaborative tools and other project management tools in order to enable the PROGRAM MANAGER to coordinate the work of said parties as required under this Agreement.

13. PROGRAM MANAGER shall be responsible for the management, coordination, and administration of the Bond Oversight Committee and its website. OWNER will be responsible for reviewing and approving all content for the website. Notwithstanding the preceding, PROGRAM MANAGER shall cooperate and assist the OWNER with providing information and reports to the Bond Oversight Committee. PROGRAM MANAGER shall attend all Bond Oversight Committee meetings and assist the OWNER in preparing material and information for the Bond Oversight Committee.

14. OWNER shall be responsible for all contracting functions, which includes but is not limited to, bid opening, determining responsiveness of bids, responsibility of bidders and awarding of contracts in accordance with California Public Contract Code and the Education Code and any other applicable laws. Notwithstanding the preceding, PROGRAM MANAGER shall advise and assist the OWNER with respect to bid opening, determining responsiveness of bids, responsibility of bidders and awarding of contracts in accordance with California Public Contract Code and the Education Code and any other applicable laws.

15. OWNER shall be responsible for all contracting functions, which includes but is not limited to, selection, negotiation and award of professional and other specialty contracts in accordance with California Public Contract Code and the Education Code and any other applicable laws. Notwithstanding the preceding, PROGRAM MANAGER shall advise and assist the OWNER with respect to selection, negotiation and award of professional and other specialty contracts in accordance with California Public Contract Code and the Education Code and any other applicable laws.

16. OWNER shall provide written direction signed by the Owner’s representative with regard to any direction arising out of this Agreement.
17. **OWNER** shall prepare any Board documents to be presented at the Board meetings. Notwithstanding the preceding, **PROGRAM MANAGER** shall review and assist the **OWNER** with respect to preparing Board documents, including preparing reports, summaries, background and substantiating information for the Board.

18. **OWNER** shall be responsible for submission and approval process of any design documents through the Division of State Architect. Notwithstanding the preceding, **PROGRAM MANAGER** shall assist **OWNER** in expediting timely response and approval of any design or construction material submitted for projects under this Program.

19. The **OWNER** shall, in a timely manner, make payment of **PROGRAM MANAGER**'s invoices for services and expenses within 30 days of the invoice receipt by the **OWNER** but not more than 45 days of such receipt. **OWNER** failure to make payment after 90 days shall be grounds for **PROGRAM MANAGER** to suspend services until such payments are made.

**ARTICLE 11. - LIABILITY OF OWNER**

1. Other than as provided in this Agreement, **OWNER**'s obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall **OWNER** be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement, except to the extent that such damages arise out of the **OWNER** actions.

2. Any and all costs incurred by **OWNER**, or for which **OWNER** may become liable, to the extent caused by negligent delays of **PROGRAM MANAGER** in its performance hereunder, shall be paid to **OWNER** by **PROGRAM MANAGER** as provided for herein and/or under California law.

3. **OWNER** shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by **PROGRAM MANAGER**, or by its employees, even though such equipment be furnished or loaned to **PROGRAM MANAGER** by **OWNER**.

**ARTICLE 12. - INSURANCE**

1. **PROGRAM MANAGER** shall comply with the insurance requirements for this Agreement, set forth in Exhibit "E."

2. **OWNER** shall be given 30 days notice prior to cancellation or reduction of coverage amounts of any of the insurance.
3. **PROGRAM MANAGER** shall provide certificates of insurance and endorsements to **OWNER** prior to commencement of the work of this Agreement as required in Exhibit "E."

**ARTICLE 13. - NONDISCRIMINATION**

1. **PROGRAM MANAGER** agrees that no discrimination shall be made in the employment of persons under this Agreement because of the race, national origin, ancestry, religion, age, physical disability, sex, or sexual orientation of such person.

2. **PROGRAM MANAGER** shall comply with any and all regulations and laws governing nondiscrimination in employment.

**ARTICLE 14. - ENTIRE AGREEMENT/MODIFICATION**

This Agreement, including the Exhibits hereto, supersedes all previous contracts and constitutes the entire understanding of the parties hereto. **PROGRAM MANAGER** shall be entitled to no other benefits than those specific herein. No changes, amendments or alterations shall be effective unless in writing and signed by both parties. **PROGRAM MANAGER** specifically acknowledges that in entering into this Agreement, **PROGRAM MANAGER** relies solely upon the provisions contained in this Agreement and no others.

**ARTICLE 15. - NON-ASSIGNMENT OF AGREEMENT**

In as much as this Agreement is intended to secure the specialized services of the **PROGRAM MANAGER**, **PROGRAM MANAGER** may not assign, transfer, delegate or sublet any interest therein without the prior written consent of **OWNER** and any such assignment, transfer, delegation or sublease without the **OWNER'S** prior written consent shall be considered null and void. Likewise, **OWNER** may not assign, transfer, delegate or sublet any interest therein without the prior written consent of **PROGRAM MANAGER** and any such assignment, transfer, delegation or sublease without **PROGRAM MANAGER'S** prior written consent shall be considered null and void.

**ARTICLE 16. - LAW, VENUE**

1. This Agreement has been executed and delivered in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California.

2. San Diego County, California, in which the **OWNER** is located, shall be the venue for any action or legal proceeding that may be brought or arise out of this Agreement.
ARTICLE 17. - ALTERNATIVE DISPUTE RESOLUTION

All claims, disputes or controversies arising out of, or in relation to the interpretation, application or enforcement of this Agreement may be decided through mediation as the first method of resolution. If this method proves unsuccessful, then all claims; disputes or controversies as stated above may be decided through arbitration, if agreed to by all parties.

ARTICLE 18. - SEVERABILITY

If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

ARTICLE 19. - EMPLOYMENT STATUS

1. **PROGRAM MANAGER** shall, during the entire term of Agreement, be construed to be an independent contractor and nothing in this Agreement is intended nor shall be construed to create an employer-employee relationship, joint venture relationship, or to allow **OWNER** to exercise discretion or control over the professional manner in which the **PROGRAM MANAGER** performs the services which are the subject matter of this Agreement; provided always, however, that the services to be provided by **PROGRAM MANAGER** shall be provided in a manner consistent with all applicable standards and regulations governing such services.

2. Nothing in this Agreement shall operate to confer rights or benefits on persons or entities not a party to this Agreement

ARTICLE 20. - REPRESENTATION AND WARRANTIES BY PROGRAM MANAGER

1. **PROGRAM MANAGER** represents that the **PROGRAM MANAGER** is properly licensed and/or certified under the laws and regulations of the State of California to provide the special services that it has herein agreed to perform.

2. **PROGRAM MANAGER** represents that it is aware of the provisions of the Labor Code of the State of California, which require every employer to be insured against liability for workers compensation or to undertake self-insurance in accordance with the provisions of that code, and it certifies that it will comply with those provisions before commencing the performance of the work of this Agreement.

3. **PROGRAM MANAGER** represents that, to extent California or Federal law relating to prevailing wages apply to **PROGRAM MANAGER**'S employees
under this Agreement, it will comply with the said law and indemnify the
OWNER for PROGRAM MANAGER'S failure to do so.

ARTICLE 21. - COST DISCLOSURE - DOCUMENTS AND WRITTEN REPORTS

PROGRAM MANAGER shall be responsible for compliance with California
Government Code section 7550, if the total cost of the Agreement is over five thousand dollars
($5,000).

ARTICLE 22. - COMMUNICATIONS

Communications between the parties to this Agreement may be sent to the following
addresses:

OWNER:
Southwestern Community College District
900 Otay Lakes Road
Chula Vista, CA 91910
Attention: Nicholas C. Alioto
Vice President of Business and Financial Affairs

PROGRAM MANAGER:
Seville Construction Services, Inc.
35 Hugus Alley, Suite 210
Pasadena, CA 91103
Attention: Jeffrey S. Flores
President/CEO

ARTICLE 23. - DISABLED VETERAN BUSINESS ENTERPRISE PARTICIPATION

Pursuant to section 17076.11 of the Education Code, the OWNER has a participation
goal for Disabled Veteran Business Enterprises (DVBE'S) of at least three (3) percent, per year,
of funds expended each year by the OWNER. Therefore, to the extent feasible, the PROGRAM
MANAGER shall provide to the OWNER certification of compliance with the procedures for
implementation of DVBE contracting goals, appropriate documentation identifying the amount
paid to DVBE'S in conjunction with the contract and documentation demonstrating the
PROGRAM MANAGER'S good faith efforts to meet these goals.

ARTICLE 24. - OTHER PROVISIONS

1. Neither the OWNER'S review, approval of, nor payment for, any of the Services
required under this Agreement shall be construed to operate as a waiver of any
rights under this Agreement, and PROGRAM MANAGER shall remain liable to
the OWNER in accordance with this Agreement for all damages to the OWNER
caused by PROGRAM MANAGER'S failure to perform any of services
furnished under this Agreement to the standard of care as stated in this
Agreement.
ACCEPTED AND AGREED on the date indicated below:

SOUTHWESTERN COMMUNITY COLLEGE DISTRICT

By: __________________________

Dated: __________, 2009

Print Name: Raj K. Chopra, Ph.D
Print Title: Superintendent/President

Dated: __________, 2009

SEVILLE CONSTRUCTION SERVICES, INC.

By: __________________________

Print Name: Mr. Jeffrey S. Flores
Print Title: President/CEO

Federal Tax Identification Number: 95-4842204

Originator: John M. Wilson,
Senior Director of Business,
Operations & Facilities Planning

Account No.: 0-45110-718701-970
EXHIBIT "A"
RESPONSIBILITIES AND SERVICES OF PROGRAM MANAGER

I. PROGRAM MANAGEMENT SERVICES

PROGRAM MANAGER shall provide the following Services with respect to the entire Program:

A. BASIC SERVICES

PROGRAM MANAGER agrees to provide the services described below:

1. Provide services that shall comply with professional program management standards and applicable requirements of federal, state, and local law.

2. Advise the OWNER as to the regulatory agencies that have jurisdiction over the Projects, and as to coordination with and implementation of the requirements of the regulatory agencies, including without limitation the Division of the State Architect.

3. Contract for or employ Consultants to the extent necessary for the performance of PROGRAM MANAGER'S Services under this Agreement. Nothing in the foregoing shall create any contractual relationship between the OWNER and any consultant employed by the PROGRAM MANAGER under terms of this Agreement. PROGRAM MANAGER shall provide OWNER a list of all Consultants performing work related to the Program. All consultants employed by the PROGRAM MANAGER must be pre-approved by the owner.

4. Coordinate and communicate with other professionals and consultants employed by the OWNER, including without limitation the Project Architects and Construction Managers (if applicable) for the design coordination and management of construction work related to the Program.

5. Chair, conduct and take minutes of periodic construction meetings involving the OWNER, the Design Professionals, Construction Managers (if applicable) and Contractors during the course of the Projects. PROGRAM MANAGER shall invite the OWNER and/or its representative to participate in these meetings. PROGRAM MANAGER shall keep meeting minutes to document comments and agreements generated in these meetings, but shall not be responsible for analyzing design issues raised in said meetings.

6. Be responsible for the professional quality and technical accuracy of all cost estimates, constructability reviews, studies, reports, projections, and other Services furnished by PROGRAM MANAGER under this Agreement as well as coordination with all Master Plans, studies, reports and other information provided by OWNER to PROGRAM MANAGER. To the extent observed by PROGRAM MANAGER,
PROGRAM MANAGER shall, without additional compensation, correct or revise any errors or omissions in materials it generates.

7. Maintain a log of all formally noticed meetings held in conjunction with the Program, with documentation of major discussion points, observations decisions, questions or comments. These shall be furnished to the OWNER and/or its representative for inclusion in the overall Program documentation.

8. The PROGRAM MANAGER shall utilize a Program Management Information System (PMIS), to ensure communications between the OWNER, PROGRAM MANAGER, Design Professionals, Contractors, Construction Managers, vendors and other parties on the Projects. Support and maintenance of the PMIS, includes connecting the PMIS to all Project sites and assigning all necessary staff to ensure that the information on the PMIS is current.

9. The PROGRAM MANAGER shall coordinate transmittal of documents to regulatory agencies for review and shall advise the OWNER of potential problems in completion of such reviews.

10. The PROGRAM MANAGER shall develop and support a website or utilize the OWNER’S website for public access to show all aspects of each Project and the Program, including budget, cost and schedule related to the Program status.

11. The PROGRAM MANAGER shall review, certify, and process the amounts due to the Project Architects, Inspectors, the Contractors, vendors, consultants, Construction Managers, and other OWNER Consultants.

12. In consultation with the Project Architects, the PROGRAM MANAGER shall review the payment applications submitted by each Contractor or Construction Manager (as applicable), vendors and consultants, and determine whether the amount requested reflects the progress of the parties’ work. The PROGRAM MANAGER shall make appropriate adjustments to each payment application and shall prepare on a monthly basis and forward to the OWNER a Progress Payment Report. The Report shall state the total contract price, payments to date, current payment requested, retainage and actual amounts owed for the current period. Included in this report shall be a Certificate of Payment that shall be signed by the PROGRAM MANAGER and delivered to the OWNER.

13. When requested in writing by the OWNER, the PROGRAM MANAGER shall provide written evaluation of the Project Architects' and/or the Contractors' performance under the requirements of the Construction Documents.

14. Within a reasonable time, the PROGRAM MANAGER shall evaluate and render written recommendations to the OWNER on all claims, disputes, or other matters at issue between the OWNER and any Contractor, vendor or consultant relating to the execution or progress of the Work as provided in the Construction Documents. Such written recommendations to the OWNER will be provided within ten (10) Working
Days from the date the request is received by the **PROGRAM MANAGER** unless additional review time is required and provided sufficient explanation to the **OWNER** is given in writing.

15. The **PROGRAM MANAGER** shall monitor and coordinate with Project Architects and Construction Managers (as applicable) adjustments and updates to the Master Schedule and distribute copies to the **OWNER**, Construction Management and Project Architects, as applicable. Recommendations for such adjustments to the Master Schedule shall be made to the **OWNER**, and upon the **OWNER'S** approval, shall be incorporated by the **PROGRAM MANAGER**.

16. The **PROGRAM MANAGER** shall review any recovery schedules submitted by the Contractors for compliance with the Construction Documents.

17. **PROGRAM MANAGER** shall coordinate with the **OWNER'S** Labor Compliance Consultant the implementation and coordination of all activities related to **OWNER'S** Labor Compliance Program.

18. **PROGRAM MANAGER** shall coordinate the work of **OWNER'S** Hazardous Material consultants in relation to each of the Projects on the Program. **PROGRAM MANAGER** shall assist in selecting consultants, coordinate work of the consultants and assist the **OWNER** in coordinating the work product of Hazmat consultants into the project bid documents.

19. **PROGRAM MANAGER** shall coordinate all aspects of moving, facilities transitions, furnishings and equipment relocations and building preparation for construction and occupancy. This shall include assistance with selection management and coordination of movers, vendors, and others involved. **PROGRAM MANAGER** shall assist the **OWNER'S** procurement and purchasing departments with the acquisition of said materials and services.

20. **PROGRAM MANAGER** shall assist the **OWNER** in establishing direct contracts for ancillary services such as:
   a. Material Testing Laboratory
   b. Geotechnical Engineering
   c. Hazardous Material and Abatement Services
   d. All Inspection Services
   e. Building Commissioning (including Mechanical)

21. **PROGRAM MANAGER** is not responsible for:
   a. Soils or groundwater contamination or hazardous material analysis.
   b. Any hazardous material testing, design or abatement however, it shall coordinate and integrate its work with any such information provided by **OWNER** as stated above.
c. Compliance with the California Environmental Quality Act ("CEQA"), except that **PROGRAM MANAGER** agrees to coordinate its work with that of any CEQA consultants retained by the **OWNER**, and to provide current information for use in CEQA compliance documents.

d. Historical significance report.

e. Soils investigation.

f. Geotechnical hazard report.

g. Topographic survey, including utility locating services.

h. Other items specifically designated as the **OWNER'S** responsibilities under this Agreement.

i. Inspection Services

j. Any other testing services not identified above

22. For all regularly noticed meetings required by the **OWNER**, PROGRAM MANAGER is required to attend as part of this Agreement; **OWNER** will ensure PROGRAM MANAGER is provided adequate advance notification of such meetings.

B. **PROGRAM SERVICES**

1. **PROGRAM MANAGER** shall monitor and advise the **OWNER** as to all material developments in the Program and the Projects. **PROGRAM MANAGER** shall develop and implement with **OWNER** approval reporting methods for schedules, cost and budget status, and projections for each project in the **OWNER'S** Program. **PROGRAM MANAGER** shall be the focal point of all communication to and from Design Professionals, Construction Contractors/Construction Managers (if applicable) and **OWNER** shall be copied on all communications between **PROGRAM MANAGER** and its Design Professionals, Construction Managers and Contractors.

2. **Scheduling:** **PROGRAM MANAGER** shall develop processes to track and report on schedule status for each Project and for the overall Program. **PROGRAM MANAGER** shall develop master schedules and milestone schedules, as appropriate, for each Project, and shall report on same each month to the **OWNER**. **PROGRAM MANAGER** shall notify the **DISTRICT** in writing if it determines, or becomes aware, that the current schedule for a Project or the overall Program is not consistent with the approved Project schedule or the approved Master Schedule. To the best of its ability, **PROGRAM MANAGER** shall notify the **DISTRICT** of the cause or causes of delay and offer recommendations to eliminate or mitigate any delays or potential delays.

3. **Policies and Procedures:** **PROGRAM MANAGER** shall develop, define and detail the procedural systems and manuals needed for a unified management, accounting, reporting, and scheduling systems in which data will be received by the **OWNER**, and reconcile with its financial system.
4. Financial Analysis: **PROGRAM MANAGER** shall perform financial analysis and cash flow projections of planned and actual expenditures as well as bond funds.

5. Procurement Strategy: **PROGRAM MANAGER** shall identify a procurement strategy for each project and packaging of projects. Basic services include delivery of listed construction projects through the traditional design/bid/build method, CM agency, CM Multiple prime, CM at Risk, Design Build and Lease Lease back.

6. Program Insurance: **PROGRAM MANAGER** shall assist in the implementation of an Owner Controlled Insurance Program (OCIP) for **OWNER**, as applicable. Interaction with broker/administrator and insurance carrier of OCIP will include development of contract language, safety, administration and claims.

7. Design Guidelines: **PROGRAM MANAGER** shall utilize the **OWNER**'s existing Architectural and Engineering Design Guideline to establish a level of creativity in the design, appropriate aesthetic appearance and contextual relationship while achieving the budgetary, functional and programming goals of the **OWNER**.

8. Historic Structures: **PROGRAM MANAGER** shall develop a Historic Structures Guideline to address the level of renovation, refurbishment, and restoration that is to be accomplished at each of the **OWNER**'s historic structures; if applicable.

9. Material and Equipment Strategy: **PROGRAM MANAGER** shall assist in developing a material and equipment purchasing strategy to establish a preset pricing structure for standard use items. The preset pricing structure shall be utilized for the duration of the program for the acquisition of the item at the time of construction by the contractors.

10. Technical Guidelines: **PROGRAM MANAGER** shall develop, with the **OWNER**'s input, a Technology Specification Guideline to document items of the preset-pricing program, to list approved building products/equipment and develop the construction documentation standards and record document procedures.

11. LEED: **PROGRAM MANAGER** shall incorporate the US Green Building Council's Leadership in Energy and Environmental Design (LEED) Building Standards to accomplish the LEED accreditation; or to a certification level as requested by **OWNER**.

12. Selection Process: **PROGRAM MANAGER** shall develop and conduct solicitation and selection process for professional services for architects, engineers, consultants, construction managers general and specialty contractors.

14. Dispute Resolution: **PROGRAM MANAGER** shall assist in developing an expeditious dispute resolution process for consultants or contractors or subcontractors for issues raised.

15. Cost Controls: **PROGRAM MANAGER** shall prepare and implement methods to budget and track all expenditures on each Project. **PROGRAM MANAGER** shall generate monthly reports, to the **OWNER** reflecting this information.

16. Program Fiscal Services: **PROGRAM MANAGER** shall coordinate with **OWNER** staff and assist the **OWNER** staff with the processing of the payments of all Design Professionals, Construction Managers, vendors and contractors involved in the Projects, including purchase requisitions and recommending invoices for payment, and attending any related meetings.

17. Communications to Board: The **PROGRAM MANAGER** may be required to attend each meeting of the **OWNER'S** Board of Trustees, and to provide updates at each meeting.

18. Community Outreach: Assist **OWNER** in all aspects of encouraging participation in **OWNER'S** Program with respect to small local businesses, women-owned businesses, minority-owned businesses and disabled veterans-owned businesses.

C. **PRE-DESIGN AND PROGRAMMING PHASE SERVICES**

1. **PROGRAM DEVELOPMENT**

Upon final execution of the Agreement with the **OWNER**, the **PROGRAM MANAGER** shall:

A. Participate in a general Project kick-off meeting to include the **PROGRAM MANAGER**, Project Architects, Construction Manager (if applicable) and **OWNER** staff.

B. **Surveys of Existing Facilities**: Review reports and surveys regarding existing conditions, including geotechnical and hazardous materials issues. Develop proposed scopes of work for each site in conjunction with **OWNER**, Project Architects and public input. Assist **OWNER** with establishing priorities for each Project site.

C. **Educational Specifications**: Assist **OWNER** and Project Architects with developing and refining Educational Specifications. However, **PROGRAM MANAGER** shall not be responsible for drafting such Educational Specifications.

D. **Project Schedule**: Develop, with **OWNER** and Project Architects input, the overall Program schedule and schedules for each Project. Schedules
will include phasing plans and other approaches developed with OWNER, Project Architects, and public input through public meetings.

E. Community Meetings: PROGRAM MANAGER shall participate in periodic community meetings as requested by OWNER.

F. Master Budget: The PROGRAM MANAGER shall assist the OWNER in achieving the purpose of the Program with the funds initially budgeted. The PROGRAM MANAGER shall develop a preliminary construction cost model utilizing unit costs for each major component and shall prepare preliminary cost estimates for each Project along with any OWNER requested alternates.

G. Implementation Master Plan: Assist the OWNER with preparing, implementing, updating and revising the Master Plan. The Implementation Master Plan will incorporate Project scopes, budget, and schedule as developed in this phase. The Master Plan shall set forth in detail preliminary scopes of work at each site, cost estimates for each Project, phasing plan(s) and schedules, and ranking, of priorities.

D. PRECONSTRUCTION PHASE

1. THE PROGRAM MANAGER shall provide the following services in support of the OWNER:

   A. Review all projects’ scope, budget, and goals.

   B. Clarify and define each project’s program. Validate the project budgets and resolve discrepancies.

   C. Develop an overall management strategy to monitor, review and control: designs, schedules, professional services for architects, engineers, consultants, construction managers and contractor’s payment tracking, estimated project costs, compliance with the defined project scope, design function and building quality and compliance with OWNER’S project guidelines for each project.

   D. Monitor and direct information supplied by the OWNER to the commissioned design consultants pertaining to available site surveys and conditions, as-built drawings, utility information, etc.

   E. Attend and conduct meetings necessary for coordination of project information.

   F. Be responsible for anticipating and reporting schedule problems and conflicts.
G. Develop phasing plans for renovation and addition projects to minimize disruptions of OWNER'S educational programs.

H. Analyze and validate the construction cost estimate for each project to confirm the type of systems, equipment and materials selected are appropriate. Recommend and obtain adjustments as necessary to maintain budget.

I. Monitor submittals to and obtain approvals and permits necessary by all regulatory agencies and local authorities having jurisdiction. Take action to maintain the project timeline.

J. Process required forms for OWNER approval and assist in expediting the approval process.

K. Conform to policies, procedures, reporting formats, and systems required by the OWNER.

L. Provide periodic reports that summarize project estimates, scope changes, project progress and other significant project information using the required format of the OWNER.

2. Provide overall coordination of the Projects; serve as the focal point of communication, transmitting information to the OWNER and Project team on general aspects of the Projects, including planning, scheduling, cost management, progress reporting, design review, dispute resolution, and documentation. Communications from the Contractors, Construction Managers (if applicable) to OWNER and project design team shall be through the PROGRAM MANAGER. The PROGRAM MANAGER shall receive simultaneous copies of all written communications from the OWNER or the project design teams to the contractors.

3. Develop and implement OWNER-approved implementation procedures, forms, and reporting requirements for the Projects that involve all members of the Project teams, including OWNER, design professionals, construction contractors, and Construction Managers (if applicable).

4. Oversee and support value engineering performed by the OWNER’S Consultants for each project at the Design Development Phase. Coordinate with OWNER and Design Professionals. Forward recommendations to the OWNER concerning revisions to the Master Budget and the Project Construction Cost Budgets that may result from design changes and construction.

5. Oversee constructability reviews performed by the OWNER Consultants of each Project at the Design Development Phase and at 90% completion of Construction Documents. The PROGRAM MANAGER shall review the design documents for clarity, consistency, constructability and coordination. The results of the
review shall be provided in writing and as notations on the documents to the OWNER. The PROGRAM MANAGER shall also make recommendations to the OWNER with respect to constructability, construction cost sequence of construction, construction duration and separation of the contracts for various projects into categories of the work. However, the PROGRAM MANAGER is not responsible for providing, nor does the PROGRAM MANAGER control, the Project design or the contents of the design documents, and the PROGRAM MANAGER is not responsible for Project design or engineering. The PROGRAM MANAGER'S actions in reviewing the Project design and design documents and in making recommendations as provided herein are advisory only to the OWNER and PROGRAM MANAGER shall have no liability for the Project design or related design documents. The Architect is not a third party beneficiary of the PROGRAM MANAGER'S work described in this paragraph and the Architect remains solely responsible for the contents of design drawings and design documents.

6. Develop, the schedules of the Program and each Project through the completion of construction, as directed by OWNER, in coordination with the Project Architect(s) and Construction Manager (if applicable) and advise and consult with OWNER.

7. Establish schedules for the soils consultant, for any hazardous materials testing and other consultants, and review costs, estimates, and invoices of each.

8. Develop and implement a management control system to support such functions as planning, organizing, scheduling, budgeting, reporting progress and identifying and documenting problems and solutions for each Project. The system will allow for monthly progress reports to the OWNER regarding the schedule for the Program and the Projects.

9. Organize initial planning workshop(s) to create baseline parameters for the Projects, to define overall building requirements, project strategy, conceptual budget and schedule. Pursuant to understandings reached at these meetings, PROGRAM MANAGER will develop an implementation plan that identifies the various phases of the Projects, coordination among phases, and budget and time constraints for each phase of the Projects. The plan will include a detailed strategy, master budget and master schedule as well as identification of critical events and milestone activities.

10. Attend all regularly scheduled or formally noticed planning, programming, and master site planning meetings relating to the Project.

11. Oversee cost estimating for each Project at the Schematic Design, Design Development, and Construction Documents Phases; coordinate with Design Professionals and Construction Managers (if applicable) and reconcile cost estimates with Design Professional's estimates.
E. PRE-BID PHASE

1. Develop a master schedule and a construction milestone schedule for each Project in conjunction with the Project Architects and Construction Managers (if applicable).

2. In consultation with OWNER and according to OWNER approved policies, procedures, and standards, implement procedures, forms, and reporting requirements for the Projects. Establish, accordingly, a communications procedure for the Projects that allows for decision making at appropriate levels of responsibility and accountability.

3. Work with the Design Professional(s) and Construction Managers (if applicable) to modify or add to standard, special, or general conditions for Contract(s) that might be needed for unique Project or bid package conditions, for OWNER'S approval.

4. Work with the Design Professional(s) and Construction Managers (if applicable) to develop the construction phasing for the Projects.

5. If requested by the OWNER, PROGRAM MANAGER shall assist with creating alternates for the Bid Set, including estimates for such alternates.

F. BIDDING AND AWARD PHASE

1. Conduct pre-bid conferences to familiarize bidders with the bidding documents, and any special systems, materials or methods and with Project procedures. Field questions from bidders; referring questions to Architect(s) and OWNER as required. Respond to bidder questions by addenda with Design Professional(s)' input.

2. Prepare bid analyses and advise OWNER on compliance of bidders with OWNER requirements and of bids with bid requirements. Report and recommend the award of contract to OWNER after review and evaluation.

3. Conduct pre-award conferences with successful bidders.

4. Schedule and conduct preconstruction meetings; maintain, prepare, and distribute minutes.

5. Assist the OWNER and Project Architects in the assembly, delivery and execution of the Construction Documents.

6. Assist the OWNER in verifying that the Contractors have secured all required permits, bonds, insurance, labor affidavits and waivers as required by the Construction Documents. Such action by the PROGRAM MANAGER shall not relieve the Contractors or the OWNER of their responsibilities to comply with the provisions of the Documents.
7. The **PROGRAM MANAGER** shall schedule and coordinate all tasks of the Bidding and Award Phase in accordance with the Master Plan, Master Schedule and Master Budget, which shall all be revised and kept current as required herein.


9. Assist the **OWNER** and Project Architects in developing lists of possible bidders for each Project and generate bidder interest and actively market the **OWNER’S** projects.

10. Assist the **OWNER** to implement and administer prequalification of bidders in accordance with applicable law. This service shall include the following: preparation and distribution of prequalification questionnaires; receiving and analyzing completed questionnaires; interviewing references of possible bidders, bonding agents and financial institutions; and preparing recommendations for the **OWNER**. The **PROGRAM MANAGER** shall prepare a bidders list for each project for approval by **OWNER**.

11. With the Project Architect’s assistance, coordinate the delivery of Bid Documents to the bidders. The **OWNER** shall obtain the **OWNER**-approved contract documents from the Design Professional and the **PROGRAM MANAGER** shall arrange for printing, binding, wrapping and delivery to the bidders. The **PROGRAM MANAGER** shall maintain a list of bidders receiving Bid Documents.

12. Prepare an estimate of costs for all such activities and shall submit the estimate to the **OWNER** for approval. Project and construction budgets shall be adjusted as directed by the **OWNER**.

13. Assist the **OWNER** in preparing and placing notices and advertisements to solicit bids for the Projects. The **OWNER** shall pay for all bid-related printing and advertising costs.

14. Assist the **OWNER** in preparing all necessary bidding information and bidding forms required by **OWNER** and shall assist the **OWNER** in preparing the Contracts for Construction, including review of all specifications to ensure they require the Contractor to provide operation manuals and adequate training for the **OWNER** in the operation of mechanical, electrical, electronic data equipment and hardware of all types, and other systems installed by the Contractors. **PROGRAM MANAGER** shall review and monitor compliance by the Project Architects and provide lists of **OWNER**-specific inventory materials to be provided at the end of the Projects by the Contractors such as extra furnace filters, lighting fixture lamps, floor tiles, ceiling tiles, interior paint, exterior paint, etc.

15. Develop and coordinate procedures to provide answers to bidders' questions.

16. Coordinate receipt from the Project Architects of copies of all Addenda. The **PROGRAM MANAGER**, in conjunction with the Project Architects, shall distribute
a copy of all Addenda to each bidder receiving Construction Documents for the Projects.

17. Assist the OWNER in conducting the bid opening and shall assist in evaluating the bids for responsiveness and price. The PROGRAM MANAGER shall make recommendations to the OWNER concerning the acceptance or rejection of bids.

18. In consultation with OWNER and Project Architects, conduct pre-construction conferences during which the PROGRAM MANAGER shall review the organization, communication protocols, security, responsibilities and other general procedures for each Project.

19. Assist in scheduling and coordination of all tasks of the Award and Bid Phase in accordance with the Master Plan, Master Schedule and Master Budget, which shall all be revised and kept current as necessary.

G. CONSTRUCTION PHASE

1. The PROGRAM MANAGER shall conduct regularly scheduled and formally noticed construction meetings for each Project to discuss and resolve such matters as progress, quality and scheduling. Said meetings shall be weekly unless Project conditions do not require that frequency. Prepare and promptly distribute minutes. When required by field or other conditions, construction progress, or the quality or workmanship, special construction meetings; record, prepare, and distribute minutes of these meetings to the OWNER, the affected construction contractors, and Architect(s).

2. The PROGRAM MANAGER shall keep the OWNER informed of the progress, timeliness, cost, and quality of the Work with detailed monthly reports that include sequential pictures of the progress of Construction.

3. The PROGRAM MANAGER shall develop and implement procedures for the review and processing of applications by contractors for progress and final payments.

4. The PROGRAM MANAGER shall verify that safety programs are submitted by each of the contractor(s) as required by the applicable contract. Neither PROGRAM MANAGER nor OWNER shall be responsible for or have any liability for contractor(s) failure to provide, comply with, or enforce said programs.

5. The PROGRAM MANAGER shall monitor the keeping of daily logs by the OWNER'S Contractor and/or Construction Manager to record the progress of each Project on a daily basis.

6. The PROGRAM MANAGER shall use its best efforts to monitor that projected costs for each Project will not exceed approved budget for that Project and provide the OWNER timely notice of any potential increase in costs in excess of approved budgets provided to PROGRAM MANAGER.
7. Negotiate contractor’s proposals and review change orders prepared by Project Architect(s), with Project Architect(s)’ input as needed, for approval by the OWNER’S Governing Board.

8. Maintain a change order log for each Project and implement procedures to expedite processing of change orders.

9. Implement procedures for issues identification and resolution of actual or potential claims of the construction contractors, and ensure that all claims against OWNER are mitigated, eliminated, or settled.

10. Develop and implement procedures with the assistance and confirmation of the Design Professional(s) for the review and processing of construction contractor(s) applications for progress and final payments for all construction contracts. Coordinate the submittal, review, verification and processing of payment applications for progress and final payment for all Construction contracts.

11. Assist OWNER in selecting and retaining special consultants and testing laboratories and coordinate their services.

12. Unless the DISTRICT retains a Construction Management Consultant for a particular Project, based upon the Project Architect’s responses, provide responses to, and maintain logs of requests for information from construction contractor(s), based on information obtained from the Architect(s) or the OWNER.

13. Establish and implement procedures, in collaboration with the Design Professionals, for expediting the processing and approval of shop drawings; product data, samples, and other submittals for each contract. Receive and transmit all submittals from the construction contractor(s) to the Design Professional(s) for review and approval. Maintain submittal and shop drawing logs.

14. Prepare and distribute monthly project status reports to the OWNER for each active Project and the Program, including updates on project activities, progress of work, outstanding issues, potential problems status of requests for information (“RFI’s”), change orders and submittals.

15. Assist the OWNER in interpreting and deciding matters concerning the performance of the Project Architects, and Contractors under the requirements set forth in the Construction Documents upon written request from the OWNER, a Project Architect or a Contractor. The PROGRAM MANAGER’S response to such requests shall promptly be made in writing.

16. Interpretations and decisions of the PROGRAM MANAGER shall be consistent with the intent of, and reasonably inferable from, the Construction Documents and shall be in writing or in the form of drawings and shall normally be provided within five (5) Working Days from the date a request for interpretation or information is received by the PROGRAM MANAGER.
17. Report to the **OWNER** known deviations from the Construction Documents and from the most recent Construction schedules and budgets submitted by the Contractors.

18. The **PROGRAM MANAGER** shall not issue change orders to the Project Architects or Contractors that might commit the **OWNER** to extra expenses or otherwise amend the Construction Documents without first obtaining written approval of the **OWNER**.

19. On a monthly basis, the **PROGRAM MANAGER** shall review the progress for all Projects and evaluate the percentage complete of each Construction activity as indicated in the Contractors' Construction Schedule and/or schedule of values. This evaluation shall serve as data for input to the periodic **PROGRAM MANAGER** Schedule Report that shall be prepared and distributed to the **OWNER**. The Report shall indicate the actual progress compared to scheduled progress and shall serve as the basis for the progress payments to the Contractor.

20. Prepare and distribute the Progress Payment Reports to the **OWNER** for each Project. The Reports shall state the total Construction price, payment to date, current payment requested retention and actual amounts owed each period.

21. Prepare and distribute Project Cost Reports during the Construction Phase for each Project. The Reports shall specify actual Project and Construction Costs compared to the **OWNER**-approved Construction Cost Budget for each Project and overall Master Budget.

II. **SUBSTANTIAL COMPLETION**

Prior to the issuance of a Certificate of Substantial Completion, if any, the **PROGRAM MANAGER** shall coordinate with the Project Architect(s), the Construction Managers (if applicable) and Inspector of Record (IOR), the preparation of a list of incomplete work or work which does not conform to the requirements of the contract documents. This list shall be attached to the Certificate of Substantial Completion, if any.

I. **FINAL COMPLETION**

The **PROGRAM MANAGER** shall consult with the Design Professional(s), IOR and the **OWNER** as to the determination when a Project and a contractor's work is finally completed. The **PROGRAM MANAGER** shall assist the **OWNER** with the issuance of a Certificate of Final Completion.

At the conclusion of corrective action for all punch-list items, the **PROGRAM MANAGER** shall coordinate a final comprehensive review of the Project and shall report the results of that review to the **OWNER**. The **PROGRAM MANAGER**'s Project review reports will indicate whether the **PROGRAM MANAGER**, the Construction Managers (if applicable) the Project Architects, and the IOR find the Work performed acceptable under the Construction Documents and the relevant Project data, and will make recommendations as to final payment and the Notice of Completion to the
Contractor. Following issuance of a recorded Notice of Completion of a Project or a designated portion thereof, the PROGRAM MANAGER shall evaluate the completion of the Work of the Contractors and make recommendations to the Project Architects as to when the OWNER may file a Notice of Completion. The PROGRAM MANAGER shall coordinate with the Project Architects and the Construction Managers (if applicable) in conducting final inspections and reviewing punch-list items.

J. FINAL DOCUMENTS

The PROGRAM MANAGER shall assist the OWNER in securing and transmitting to the OWNER required guarantees, keys, manuals, record drawings, and daily logs from the contractors. The PROGRAM MANAGER shall also forward all documents and plans to the OWNER upon completion of the program and ensure all such plans and documents are well organized for any appropriate audit or review of the program.

K. WARRANTY

The PROGRAM MANAGER shall assist with the development of a Warranty Inspection and Warranty Work procedure that all contractors are to follow.

II. CONSTRUCTION MANAGEMENT SERVICES

PROGRAM MANAGER shall, at the request of the DISTRICT, provide the following construction management Services for the Projects as designated in Appendix 1 to this Exhibit:

1. Provide and maintain a management team for the Project sites.

2. Provide project management and construction management Services except in cases when the OWNER contracts directly with construction management consultant(s). Except where the OWNER retains Construction Managers, during the Construction Phases, PROGRAM MANAGER's full-time Project Managers and support staff shall coordinate and monitor the work of the Project Architects and the Contractors in accordance with the PROGRAM MANAGER's Staffing Plan reviewed and approved by the OWNER. Any services for "Agency" Construction Management services will be performed per the staffing plan and hourly rates designated in Appendix 1 to Exhibit "C", herein.

3. In consultation with the Project Architects, the PROGRAM MANAGER shall review the payment applications submitted by each Contractor and determine whether the amount requested reflects the progress of the Contractor's work. The PROGRAM MANAGER shall make appropriate adjustments to each payment application and shall prepare and forward to the OWNER a Progress Payment Report. The Report shall state the total contract price, payments to date, current payment requested, retainage and actual amounts owed for the current period. Included in this report shall be a Certificate of Payment that shall be signed by the PROGRAM MANAGER and delivered to the OWNER.
4. When requested in writing by the OWNER, the PROGRAM MANAGER shall provide written evaluation of the Project Architects' and/or the Contractors' performance under the requirements of the Construction Documents.

5. The PROGRAM MANAGER shall review any recovery schedule submitted by the Contractors for compliance with the Construction Documents.

6. PROGRAM MANAGER shall administer the construction contracts in accordance with the staffing plan provided in Exhibit “C”.

7. PROGRAM MANAGER shall monitor the construction contractor(s) to verify that tools, equipment and labor are furnished and work performed and completed within the time as required or indicated by the plans and specifications, under direction and to the satisfaction of the OWNER. PROGRAM MANAGER expressly agrees to verify that every term and requirement of said specifications is met, observed performed and followed in accordance with the professional standards of care for construction management. PROGRAM MANAGER shall not, however, be responsible for directing construction contractor(s)' means and methods.

8. PROGRAM MANAGER shall coordinate work of the construction contractor(s) and effectively manage the Projects to achieve the OWNER'S objectives in relation to cost, time and quality. PROGRAM MANAGER shall not, however, be responsible for directing construction contractor(s)' means and methods. PROGRAM MANAGER shall not be responsible for the results of Construction Management Consultants directly contracted by the OWNER.

9. PROGRAM MANAGER shall conduct construction meetings for each Project to discuss and resolve such matters as progress, quality and scheduling. Said meetings shall be weekly unless Project conditions do not require that frequency. Prepare and promptly distribute minutes. When required by field or other conditions, construction progress, or the quality or workmanship, conduct special construction meetings; record, prepare, and distribute minutes of these meetings to the OWNER, the affected construction contractors, and Architect(s).

10. PROGRAM MANAGER shall closely monitor construction contractors to provide construction schedules as required by their construction contracts, including activity sequences and durations, submittal schedule, or procurement schedule for products that require long lead time. PROGRAM MANAGER shall construction contractors' construction schedules for conformity with requirements of the construction contract(s) and conformity with the Master schedule for the Project. Where construction contractors' construction schedules do not so conform, PROGRAM MANAGER will take appropriate Propositions to secure compliance, subject to OWNER approval.
11. **PROGRAM MANAGER** shall control construction contractor(s)' compliance with the requirements of their respective construction Contracts for updating revising, and other obligations relative to their respective construction schedules. **PROGRAM MANAGER** shall incorporate construction contractor(s)' construction schedule updates and revisions into the Project construction schedule.

12. **PROGRAM MANAGER** shall keep the **OWNER** informed of the progress, timeliness, cost, and quality of the Work with detailed monthly reports that include sequential pictures of the progress of Construction.

13. **PROGRAM MANAGER** shall monitor and review the Project Architects' issuance of clarifications in response to properly prepared requests for information.

14. **PROGRAM MANAGER** shall use its best efforts to ensure construction contract requirements are being fulfilled.

15. Minor Variations in the Work
   a. The **PROGRAM MANAGER** may authorize minor variations in the work from the requirements of the contract documents that do not involve an adjustment in the contract price or the contract time or design and which are consistent with the overall intent of the contract documents. The **PROGRAM MANAGER** shall provide to the Project Architect(s) and the **OWNER** copies of such authorizations.

16. Progress Payments
   a. The **PROGRAM MANAGER** shall develop and implement procedures for the review and processing of applications by contractors for progress and final payments.

17. Contractor Safety Programs
   a. **PROGRAM MANAGER** shall verify that safety programs are submitted by each of the contractor(s) as required by the contract. Neither **PROGRAM MANAGER** nor **OWNER** shall be responsible for or have any liability for contractor(s) failure to provide, comply with, or enforce said safety programs.

18. **PROGRAM MANAGER** shall control projected costs for each Project so they will not exceed approved budget for that Project and provide the **OWNER** timely notice of any potential increase in costs in excess of approved budgets provided to **PROGRAM MANAGER**.

19. **PROGRAM MANAGER** shall negotiate contractor's change order proposals and review change orders prepared by Project Architect(s), with Project Architect(s)' input as needed, for approval by the **OWNER'S** Governing Board.
20. **PROGRAM MANAGER** shall maintain a change order log for each Project and implement procedures to expedite processing of change orders.

21. **PROGRAM MANAGER** shall implement procedures for issues identification and resolution of actual or potential claims of the construction contractors, and ensure that all claims against **OWNER** are mitigated, eliminated, or settled.

22. **PROGRAM MANAGER** shall develop and implement procedures with the assistance and confirmation of the Design Professionals for the review and processing of construction contractor(s) applications for progress and final payments for all construction contracts. Coordinate the submittal, review, verification and processing of payment applications for progress and final payment for all Construction contracts.

23. In conjunction with the Inspector of Record (IOR) and the Architect(s), **PROGRAM MANAGER** shall observe the Work of the construction contractors to determine that the work is being performed in accordance with the requirements of the respective construction contracts. As appropriate, with assistance of Project Architect(s) and IOR, make recommendations to **OWNER** regarding special, inspection or testing of work that is not in accordance with the provisions of the construction contract documents. **PROGRAM MANAGER** shall establish and implement a quality Control program to monitor the quality and workmanship of construction for conformity with: (a) accepted industry standards; (b) applicable laws, rules, or ordinances; and (c) the design documents, to guard **OWNER** against defects in the work of the Construction contractors. Where the work of a construction contractor does not conform as set forth above, **PROGRAM MANAGER** shall, with the input of Project Architect(s), reject the non-conforming work and ensure that the construction contractor(s) corrects the work. **PROGRAM MANAGER** shall not be responsible for inspecting the contractor's work or performing any of the duties of the IOR.

24. **PROGRAM MANAGER** shall provide responses to, and maintain logs of requests for information from construction contractor(s), based on information obtained from the Architect(s).

25. **PROGRAM MANAGER** shall establish and implement procedures, in collaboration with the Design Professionals, for expediting the processing and approval of shop drawings, product data samples, and other submittals for each contract. Receive and transmit all submittals from the construction contractor(s) to the Design Professional(s) for review and approval. Maintain submittal and shop drawing logs.

26. **PROGRAM MANAGER** shall record the progress of work at the Project. When present, prepare daily reports for the Project containing a record of weather, construction contractor(s) present and their number of workers, work accomplished, problems encountered, and other relevant data.
27. **PROGRAM MANAGER** shall prepare and distribute monthly project status reports for each active Project and the Program, including updates on project activities, progress of work, outstanding issues, potential problems, schedule, status of requests for information ("RFI'S"), change orders and submittals.

28. Upon written request from the **OWNER**, a Project Architect or a Contractor, the **PROGRAM MANAGER** shall interpret and decide matters concerning the performance of the **OWNER**, Project Architects, and Contractors under the requirements set forth in the Construction Documents the **PROGRAM MANAGER**'s response to such requests shall promptly be made in writing.

29. Interpretations and decisions of the **PROGRAM MANAGER** shall be consistent with the intent of and reasonably inferable from, the Construction Documents and shall be in writing or in the form of drawings within five (5) Working Days from the date a request for interpretation or information is received by the **PROGRAM MANAGER**.

30. The **PROGRAM MANAGER** shall report to the **OWNER** known deviations from the Construction Documents and from the most recent schedules and budgets submitted by the Contractors. The **PROGRAM MANAGER** shall not have control over, or charge of, and shall not be responsible for any acts or omissions of Project Architects, Contractors, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

31. The **PROGRAM MANAGER** shall not issue change orders to the Project Architects or Contractors, without written approval of the **OWNER**.

32. The **PROGRAM MANAGER** shall, on a monthly basis, review the progress of each Contractor for all Projects, shall evaluate the percentage complete of each Construction activity as indicated in the Contractors' Construction Schedule and and/or schedule of values shall review such percentages with the Contractors. This evaluation shall serve as data for input to the periodic **PROGRAM MANAGER** Schedule Report that shall be prepared and distributed to the **OWNER**. The Report shall indicate the actual progress compared to scheduled progress and shall serve as the basis for the progress payments to the Contractor. The **PROGRAM MANAGER** shall advise and make recommendations to the **OWNER** concerning the alternative courses of action that the **OWNER** may take in its efforts to achieve compliance by the Contractor.

33. The **PROGRAM MANAGER**, on a monthly basis, shall prepare and distribute the Progress Payment Reports to the **OWNER** for each Project. The Reports Shall state the total Construction price, payment to date, current payment requested, retention and actual amounts owed each period. A portion of this Report shall be a Certificate of Payment that shall be signed by the **PROGRAM MANAGER** and delivered to the **OWNER** for use by the **OWNER** in making payments to the Contractors.
34. The **PROGRAM MANAGER** shall, on a monthly basis, prepare and distribute Project Cost Reports during the Construction Phase for each Project. The Reports shall specify actual Project and Construction Costs compared to the **OWNER**-approved Construction Cost Budget for each Project and overall Master Budget.

35. **PROGRAM MANAGER** shall maintain at the Project site and, if necessary, **PROGRAM MANAGER'S** office, a current copy of all approved documents, drawings, specifications, addenda, change orders and other modifications and drawings marked by the construction contractor(s) to record all changes made during construction. These shall include shop drawings, product data, samples, submittals, applicable handbooks, maintenance and operating manuals and instructions, and other related documents and revisions that are relevant to the contract work. Maintain records of principal building layout lines, elevations of the bottom of footings, floor levels, and key site elevations as provided by the construction contractor(s). At the completion of the Project, deliver all such records to **OWNER**. Contractor shall bear responsibility for formal "as-built" documents.

36. **PROGRAM MANAGER** shall observe, with **OWNER'S** maintenance personnel, the construction contractor's checkouts of utilities, operational systems and equipment, and start-up and testing. Maintain records of start-up and testing as provided by the construction contractor(s), and assist **OWNER** with compliance with applicable provisions of the contract(s).

37. At Substantial Completion of the Project or designated portions thereof **PROGRAM MANAGER** shall assist the Project Architect(s) in the preparation of a list of incomplete or unsatisfactory items ("punch list work") and a schedule for the completion of the punch list work; coordinate construction contractors' performance and completion of punch list work; review with the Project Architect(s) and **OWNER**, the completed punch list work; verify with Project Architect(s) input, that completed punch list work complies with applicable provisions of the Construction contract(s).

38. **PROGRAM MANAGER** shall determine, with the Project Architect(s) and **OWNER**, when the Project or designated portions thereof are substantially complete.

**H. SUBSTANTIAL COMPLETION**

Unless the DISTRICT retains a Construction Management Consultant for a particular Project, upon substantial completion of a Project, the **PROGRAM MANAGER** shall coordinate with the Project Architect(s), and IOR, the preparation of a list of incomplete Work or Work which does not conform to the requirements of the Construction Documents. **PROGRAM MANAGER** shall also notify the DISTRICT when liquidated damages, if any, start to accrue and the start of any warranty or guarantee periods in accordance with the Construction Documents.
I. FINAL COMPLETION

Unless the DISTRICT retains a Construction Management Consultant for a particular Project, the PROGRAM MANAGER shall consult with the Design Professional(s), IOR and the OWNER and shall determine when the Project and the contractor’s work are finally completed. The PROGRAM MANAGER shall assist with the issuance of a Certificate of Final Completion, and shall provide to the OWNER a written recommendation regarding payment to the contractors.

At the conclusion of corrective action for all punch-list items, the PROGRAM MANAGER shall coordinate a final comprehensive review of the Projects and shall report the results of that review to the OWNER. The PROGRAM MANAGER’s reports will indicate whether the PROGRAM MANAGER, the Project Architects, and the Inspectors of Record find the Work performed acceptable under the Construction Documents and the relevant Project data, and will make recommendations as to final payment and the Notice of Completion to the Contractor. Following issuance of a recorded Notice of Completion of Project or a designated portion thereof, the PROGRAM MANAGER shall evaluate the completion of the Work of the Contractors and make recommendations to the Project Architects as to when the OWNER may record a Notice of Completion. The PROGRAM MANAGER shall coordinate with the Project Architects in conducting final inspections and reviewing punch-list items. If punch-list items are not completed by the Contractor, the PROGRAM MANAGER shall assist the Project Architects in calculating a reasonable value of all incomplete items and recommendations for withholding contract funds from the Contractor to remedy any incomplete or improper Work on the Projects.

J. FINAL DOCUMENTS

The PROGRAM MANAGER shall secure and transmit to the OWNER required guarantees, keys, manuals, record drawings, and daily logs. The PROGRAM MANAGER shall also forward all documents and plans to the OWNER upon completion of the program and ensure all such plans and documents are well organized for any appropriate audit or review of the program.

K. WARRANTY

The PROGRAM MANAGER shall assist the OWNER to develop a Warranty Inspection and Warranty Work procedure that all contractors are to follow.
# APPENDIX 1 TO EXHIBIT A

## Phase I
- National City New Two-Story Facility (classrooms & labs) $17,715,000
- Corner Parcel Development $73,835,000
- Replacement of Devore Stadium Field House, Classrooms, Team Rooms $8,595,000
- Shower & Locker Rooms, Faculty Offices, Weight & Fitness Room $100,145,000

## Phase II
- Remodel of 100 Buildings, Classrooms & Faculty Resource Center $5,370,000
- Remodel of 330/310, Chemistry and Life Science Laboratories Classroom $3,245,000
- New Science Building $3,200,000
- Remodel of Cafeteria Building 610 $10,272,000
- Mayan Hall (Theater) Renovation and ADA Access $8,126,000
- Synthetic Turf, Track, Team Rooms & Training Course $11,231,000
- Construct New Horticulture Classroom Building $1,256,000
- New Higher Education Center(s) Eastern and Western Chula Vista $40,977,000

## Phase III
- Remodel of 200 & 300 Buildings (210,220,381, 382) $9,234,000
- Remodel of Classroom Buildings (630 & 710) $3,839,000
- Replacement of Swimming Pools $3,126,000
- Tennis Courts and Lighting $4,853,000
- Remodel Gymnasium & Building 1000 $15,477,000
- Construct Maintenance and Operations Buildings $9,033,000
- Landscaping and Entry Construction $4,497,000
- Updated Security, Fire Alarms and Technology $2,106,000
- Instructional Equipment for Renovated and Remodeled Buildings $20,180,000
- Utility Replacement/Upgrade (District-wide) $21,434,000

## Phase IV
- Overall Phase 3 Demolition; Remove Building 640, 650, 660, 1020, all 1600 buildings, 1700/1710, 1730, 1735 & Pools $1,625,000
- SanYsidro Construction of a Parking Structure $5,478,000
- Replacement of Roofing, HVAC, Electrical Systems, Plumbing and Flooring for Buildings District Wide $26,877,500
- Central Plant $24,590,000

## Phase V
- Otay Mesa Phase II Classrooms and Labs $25,526,000
- Replacement of Roofing, HVAC, Electrical Systems, Plumbing and Flooring for Buildings District Wide $26,877,500

## TOTAL
- $388,575,000
EXHIBIT "B"

CRITERIA AND BILLING FOR EXTRA SERVICES

1. The following extra services to this Agreement shall be performed by PROGRAM MANAGER, if requested in writing by the OWNER.

   a. Providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection replacement of such work.

   b. Providing services made necessary by the default of contractors, or by major defects or deficiencies in the work of the contractor, or by failure of performance of the OWNER'S consultants, or in the absence of a final Certificate of Payment, more than sixty (60) days after the date of completion of work on the project involved.

   c. The selection, layout, procurement or specification, at the OWNER'S request, of movable furniture, furnishings, equipment or other articles that are not included in the construction contract.

   d. Determining the accuracy of existing As-Built drawings.

   e. Providing surveys relative to future facilities, systems or equipment which are intended to be constructed during the Construction Phase.

   f. Preparation of applications and supporting documents for governmental grants, permits, and/or applications for additional funding other than as required in this Agreement.

   g. Seeking variances or changes to agency guidelines on behalf of the OWNER when so directed by the OWNER.

   h. Providing coordination of Work or providing services related to Work performed by the OWNER'S own forces.

   i. Preparing to serve or serving as a witness in connection with any public hearing dispute resolution proceeding or legal proceeding, other than that necessitated by the negligent acts, errors or omissions of PROGRAM MANAGER or where the PROGRAM MANAGER is party thereto.

   j. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted scope of program, project or construction management practice.

   k. Determining space needs, except for participating in coordination meetings.

   l. Performing technical inspection and testing.

   m. Preparing operations and maintenance manuals.

   n. Performing warranty inspections after completion of PROGRAM MANAGER's schedule of Service attached to Exhibit "C".
o. Assisting the **OWNER** with public/community relations beyond involvement in public meetings described in Exhibit "A."

p. The following move-in services: preparing and soliciting responses to requests for proposals; preparing and negotiating contracts; administering contracts; overseeing moving.

q. Preparing and supporting an interactive construction website for project participants, distinct from the public access status website included in Basic Services.

r. Conducting partnering sessions.

s. Assisting the **OWNER** with review and analyses of claims submitted by contractors, design professionals or construction managers following completion of a Project.

t. Performing any program management, project management, construction management or related services on any **OWNER** projects which are not a part of or included in the Bond Program.

u. Performing operation and maintenance planning and facilities management in conjunction with **OWNER**.

v. Providing updated cost estimates for each Project at the Schematic Design, Design Development, and Construction Documents Phases; coordinating with Design Professionals and reconcile cost estimates with Design Professional's estimates.

w. Providing Construction Management Services at an additional cost and in accordance with Exhibit “C” Staffing Plan / Fee Schedule for Proposition projects and such other projects identified by the **OWNER** under a Construction Management delivery method to be negotiated on an as needed basis with the **OWNER**.

x. Third Party Services

   i. Provide updated cost estimates for each Project at the Schematic Design, Design Development, and Construction Documents Phases; coordinate with Design Professional and reconcile cost estimates with Design Professionals estimates.

   ii. Implementing and managing a Labor Compliance Program

   iii. Implementing and managing a Community Outreach Program

   iv. Conducting and coordinating Constructability Reviews

   v. Implementing and managing a Project(s) Commissioning Program

   vi. Implementing and managing a Leeds Certification Program
2. The rate schedule identified in the Staffing Plan / Fee Schedule attached to Exhibit "C", which include overhead, administrative cost, and profit, shall be utilized in arriving at the fee for extra services.

3. Above hourly rates reflect labor cost plus overhead expenses and profit only. Hourly rates do not cover General Condition and reimbursement items, such as offices, trailers, computers, copiers, phones, fax, mobile phones, etc. which will be billed at cost plus 5%.

4. Rates will be adjusted each January for a 3% industry standard cost of living increase.

5. This section is not to be construed to add additional services that should be part of the basic services to be provided through the PROGRAM MANAGER fee.
## EXHIBIT "C"

**STAFFING PLAN / FEE SCHEDULE**

PROGRAM AND CONSTRUCTION MANAGEMENT  
(Proposition and Proposition)

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</table>

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EXHIBIT "D"

INSURANCE

The **PROGRAM MANAGER** shall provide insurance in the following amounts:

1. Workers' Compensation Insurance
   a. $1,000,000 each accident
   b. $1,000,000 Disease-policy limit
   c. $1,000,000 Disease-each employee

2. Professional Liability Insurance
   $1,000,000
   ($35,000 Max Deductible)

3. Automotive Insurance
   $1,000,000

4. General Liability Insurance
   a. $2,000,000 aggregate
   b. $1,000,000 per occurrence