

RFP #3188 – EXHIBIT A**AGREEMENT FOR ON-GOING ARCHITECTURAL/ENGINEERING
(A/E) SERVICES**

This Agreement for On-Going Architectural Services ("Agreement") is entered into this ____ day of _____, 20____ by and between **MT. SAN ANTONIO COMMUNITY COLLEGE DISTRICT**, a California Community College District ("District") and _____. ("A/E"); the District and the A/E are collectively referred to herein as "the Parties." This Agreement is entered into with reference to the following Recitals, all of which are incorporated herein by this reference.

R E C I T A L S

WHEREAS, from time-to-time, the District is engaged in the design, bidding and construction of works of improvement consisting generally of the demolition, construction and/or alteration of new and existing physical facilities at the District's Mt. San Antonio College campus; these works of improvement are hereinafter collectively referred to as "the Projects" and singularly referred to as "an Assigned Project".

WHEREAS, in connection with the Projects, on or about June 2018, the District issued a Request for Qualifications ("the RFQ") pursuant to which the District requested responses from architects and engineers to provide architectural and related services for the Projects; by this reference, the RFQ is incorporated herein.

WHEREAS, the A/E submitted a written response dated _____, 2018 to the RFQ ("the RFQ Response"); by this reference, the RFQ Response is incorporated herein.

WHEREAS, the Projects require the preparation of Design Documents.

WHEREAS, applicable law, rule or regulation requires the oversight of some portions or all of the construction of the Projects by a California licensed architect.

WHEREAS, the District desires to retain A/E to provide and perform architectural and related services in connection with the design, bidding, and construction of the Projects assigned by the District to the A/E under this Agreement; the specific terms and conditions for an Assigned Project will be as set forth in the Project Assignment in substantially the form attached hereto as *Exhibit A – Project Assignment* and its *Attachment A – List of Design Requirements & Deliverables*.

WHEREAS, A/E is duly licensed as an architect and/or engineer under the laws of the State of California and is qualified and capable of providing and performing the services and its other obligations under this Agreement in accordance with the terms hereof.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the District and A/E agree as follows:

AGREEMENT**1 BASIC SERVICES.**

- 1.1 Scope.** A/E shall provide Basic Services and authorized Additional Services for an Assigned Project, as more particularly enumerated in this Agreement and in the Project Assignment for the Assigned Project. All Basic Services and authorized Additional Services for an Assigned Project shall be performed and completed by employees of the A/E and the A/E's Sub-Consultants. Architect's services hereunder shall be performed or provided consistent with the Basic Services Completion Schedule set forth in a Project Assignment and with professional skill and care and in such a manner as to avoid hindrance, interruption or delay to the orderly progress and completion of the design, bidding and construction of the Assigned Projects. The scope of Basic Services to

be provided by the A/E in connection with an Assigned Project shall be in accordance with the Project Assignment issued by the District for an Assigned Project; the form of Project Assignment is attached hereto as Exhibit A, inclusive of Attachment A – List of Design Requirements & Deliverables, and incorporated herein by this reference.

- 1.2 Project Construction Budget.** If a Project Construction Budget is established for an Assigned Project, the A/E shall design the Project Plans within the Project Construction Budget and the value of the Construction Cost Estimate for the design work shall not exceed 95 percent of the Project Construction Budget without prior written authorization of the District; where an estimate exceeds such limit without the District's authorization, A/E shall redesign the Project Plans to stay within the Project Construction Budget at no additional cost to the District. All Construction Cost Estimates prepared by the A/E for the Project shall include hard construction costs, and contractor's overhead and profit, and design contingencies within the specified Project Construction Budget.
- 1.3 Architect of Record.** Architect is the Architect of Record for the work of this Agreement and any and all Assigned Projects related thereto.
- 1.4 Pre-Approval of A/E's Consultants.** Prior to the execution of each Project Assignment, the A/E shall submit, for written approval by the District, the names of the consultant firms proposed for the Project and shall identify the principals of the proposed consultant firms who will be assigned to the Project. The District shall have the discretion to accept or reject any firm proposed. If a firm is rejected, the A/E shall propose an alternate firm acceptable to the District. Nothing in this Agreement shall create any contractual relation between the District and any consultant employed by the A/E.

2 A/E COMPENSATION.

- 2.1 Contract Price.** For each Assigned Project, the District will pay the Contract Price set forth in the Project Assignment for the Assigned Project. Unless otherwise expressly provided in the Project Assignment for an Assigned Project, the Contract Price for an Assigned Project includes without limitation the A/E's fee, Sub-Consultants' fees, personnel expense of the A/E and Sub-Consultants inclusive of all benefits and burdens, incidental expenses for telephone, postage, delivery, office supplies, reproduction of plans and prints, photographic film and development, travel for the personnel of the A/E and Sub-Consultants to and from their respective offices and the District as well as travel within the counties of Los Angeles, Orange, Riverside and San Bernardino, insurance and all other administrative or overhead costs associated with or arising out of performance of the Basic Services designated in the Project Assignment for an Assigned Project. If an Architectural Services Budget is established in the Project Assignment for an Assigned Project, the aggregate amount paid by the District for the Basic Services for the Assigned Project shall not exceed the amount of the Architectural Services Budget.
- 2.2 Construction Phase Changes; Adjustment of Contract Price.** The Contract Price for the Basic Services for an Assigned Project is not subject to adjustment unless there are Changes authorized by the District during the Construction Phase of an Assigned Project which are not the result of errors, omissions or other defects in the Design Documents or failures of the A/E or Sub-Consultants to timely and completely perform the Basic Services for the Assigned Project. If services of the A/E or Sub-Consultants are required in connection with Changes during the Construction Phase of an Assigned Project which do not result from errors, omissions or other defects in the Design Documents or failures of the A/E or Sub-Consultants to timely and completely perform the Basic Services for an Assigned Project, the Contract Price for an Assigned Project will be adjusted by an amount equal to or lesser of _____ percent (___%) of the Construction Costs of such Changes or the time of the A/E or Sub-Consultants reasonably necessary to complete design and related services for such Changes, multiplied by the applicable hourly rate(s) set forth in the Rate Schedule for the Assigned Project. If a Change during the Construction Phase of an Assigned Project is the result of errors, omissions or other defects in the Design Documents or failures of the A/E or Sub-Consultants to timely and completely perform the Basic Services,

services required of the A/E or its Sub-Consultants in connection with such Change shall not result in adjustment of the Contract Price for the Assigned Project.

2.3 Reimbursable Expenses. The Contract Price for Architect's Basic Services for an Assigned Project includes all costs and expenses of a non-capital nature reasonably and necessarily incurred by A/E to perform the Basic Services as specified in Article 2.1 above. Unless expressly authorized in advance by the District, no payment will be made by the District for expenses or costs of any kind, type or nature; payments by the District for authorized expenses shall be actual costs plus a mark-up of _____ percent (____%).

2.4 Additional Services. If the District authorizes or directs the A/E to perform or provide Additional Services described generally in Article 3 of the Conditions to this Agreement in connection with an Assigned Project, A/E shall be compensated for such Additional Services in accordance with Paragraph 3.4 of the Conditions of Agreement. Where fees for A/E's personnel are authorized, such fees shall be in accordance with the schedule attached to the Project Assignment for the Assigned Project ("the Rate Schedule").

2.5 District Payments.

2.5.1 Allocation of Contract Price. The District's payment of the Contract Price for Basic Services for an Assigned Project shall be allocated amongst the various Phases of the Basic Services for an Assigned Project as set forth in the Project Assignment for an Assigned Project.

2.5.2 A/E Billings to District. During the course of providing Basic Services for an Assigned Project, A/E shall submit monthly billing invoices to the District for payment of the Contract Price for Basic Services, authorized Additional Services, and/or authorized Reimbursable Expenses performed or incurred in the immediately prior month. A/E's billings shall be in such form and format as may be reasonably requested by District. If the Contract Price is based on a percentage of the Construction Contract Amount, until such time as that amount is established by bid and award of the construction contract, A/E's billings for Basic Services shall be based upon the amount of the District's Project Construction Budget.

2.5.3 District Payments to A/E. Within thirty (30) days of receipt of A/E's billing invoices, District will make payment to A/E of undisputed amounts of the Contract Price due for Basic Services, authorized Additional Services, and/or authorized Reimbursable Expenses. No deductions shall be made or withheld from payments due A/E hereunder on account of any penalty, assessment, liquidated damages or other amounts withheld by the District from payment to the Contractor engaged by the District for construction of an Assigned Project. The District may, however, withhold or deduct from amounts otherwise due A/E hereunder if A/E shall fail to timely and completely perform material obligations to be performed on its part under this Agreement, with the amounts withheld or deducted being released after A/E has fully cured such failure of performance, less costs, damages or losses sustained by the District resulting therefrom. Notwithstanding any provision of this Agreement to the contrary, if the District shall, in good faith, dispute the amount due A/E under any billing invoice rendered by A/E under this Agreement, pursuant to Civil Code §3320(a), the District may withhold from payment to the A/E an amount not to exceed one hundred and fifty percent (150%) of the disputed amount.

3 TERM; TIME

3.1 Initial Term. The term of this Agreement shall commence upon ratification by the District's Board of Trustees and execution by A/E and District in accordance with Paragraph 5.3 hereof. This Agreement shall terminate five (5) years thereafter ("Termination Date"). In the event that an Assigned Project is not completed or the District shall not have issued Final Payment to the Contractor as of the Termination date through no fault or neglect of A/E, the Termination Date shall be extended. In such event, Basic Services provided by A/E following the Termination Date shall be in accordance with the Rate Schedule for the Assign Projects or as may be negotiated by the Parties.

Notwithstanding expiration of the Initial Term, if at such time, there are remaining Basic Services or authorized Additional Services to be performed by the A/E in connection with an Assigned Project under a Project Assignment issued prior to expiration of this Agreement, the A/E shall continue to diligently perform and complete all such remaining Basic Services or authorized Additional Services for the Assigned Project; notwithstanding expiration of this Agreement, the District will continue to make payment for the Basic Services and authorized Additional Services performed in connection with an Assigned Project after expiration of this Agreement in accordance with the terms of the Project Assignment.

- 3.2 Time.** All of the Basic Services and authorized Additional Services set forth in the Project Assignment for an Assigned Project shall be completed by the A/E in a prompt and diligent manner. If a schedule for completion of Basic Services in connection with an Assigned Project is agreed upon between the District and the A/E, the A/E's performance and completion of Basic Services shall be in accordance with such schedule. The A/E shall be liable to the District for all costs, losses, damages or other liabilities arising out of the failure of the A/E to complete Basic Services for an Assigned Project in accordance with an agreed upon schedule, provided that the A/E's liabilities hereunder shall not extend to costs, losses, damages or other liabilities caused by factors beyond the reasonable control of the A/E.

4 INSURANCE

- 4.1 A/E's Insurance.** Minimum coverage amounts for policies of insurance to be obtained and maintained by the A/E pursuant to Article 4 of the Conditions to this Agreement are:

Workers Compensation	In accordance with applicable law
Employers Liability	\$1,000,000
Commercial General Liability (including Bodily Injury or Death and Property Damage)	
Per Occurrence	\$2,000,000
Aggregate	\$4,000,000
Automobile Liability - Bodily Injury or Death	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	
Per Occurrence	\$2,000,000
Aggregate	\$4,000,000

The foregoing notwithstanding, the minimum coverage amounts required for an Assigned Project may be modified as set forth in the Project Assignment for an Assigned Project.

- 4.2 A/E's Sub-Consultants' Insurance.** Minimum coverage amounts for policies of insurance to be obtained and maintained by each of the A/E's Design Consultants are:

Workers Compensation	In accordance with applicable law
Employers Liability	\$1,000,000
Commercial General Liability (including Bodily Injury or Death and Property Damage)	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000
Automobile Liability - Bodily Injury or Death	
Per Occurrence	\$1,000,000
Aggregate	\$2,000,000
Professional Liability	\$1,000,000

The foregoing notwithstanding, the minimum coverage amounts required for an Assigned Project may be modified as set forth in the Project Assignment for an Assigned Project.

5 MISCELLANEOUS

- 5.1 Governing Law; Interpretation.** This Agreement shall be governed and interpreted in accordance with the laws of the State of California in accordance with its fair meaning and not strictly for or against the District or A/E.
- 5.2 Successors; Non-Assignability.** This Agreement and all terms hereof are binding upon and inure to the benefit of the respective successors of A/E and the District. Neither A/E nor District shall assign rights or obligations hereunder without the prior consent of the other, which consent may be withheld or granted in sole discretion of the Party requested to grant such consent.
- 5.3 Authority.** The individual(s) executing this Agreement on behalf of A/E warrant and represent that she/he is authorized to execute this Agreement and bind A/E to all terms hereof. The individual(s) executing this Agreement on behalf of District warrant and represent that she/he is authorized to execute this Agreement and subject to approval and ratification by the District's Board of Trustees, to bind District to all terms hereof and authority granted to enter into this Agreement.
- 5.4 Notices.** Notices under this Agreement shall be addressed and delivered as follows:

If to District:

Attn: Vice President, Administrative Services
Mt. San Antonio Community College District
1100 North Grand Avenue
Walnut, CA 91789

If to A/E:

- 5.5 Entire Agreement.** This Agreement, the RFP, the RFP Response, the accompanying Conditions and the form of Project Assignment attached hereto as Exhibit A are all of the documents forming a part of the Agreement. In addition, all Project Assignments executed by the Parties during the Term of the Agreement are documents forming a part of the Agreement. If there are conflicts or inconsistencies between the terms of this Agreement, the Conditions to this Agreement or a Project Assignment and any portion of the RFP Response, this Agreement, the Conditions to this Agreement and/or a Project Assignment shall prevail and govern over the RFP Response. The foregoing constitute the entire agreement and understanding between the District and A/E concerning the subject matter hereof, replacing and superseding all prior agreements or negotiations, whether written or verbal. No term or condition of this Agreement shall be modified or amended except by writing executed by the District and A/E.

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

"District"

Mt. San Antonio Community College District

"A/E"

[Architect/Engineer Firm Name]

By: _____

By: _____

Name: _____
Vice President, Administrative Services

Name: _____

Title: _____

