

## **Request for Proposals**

**For**

**Professional Design Services**

**For**

**Construct a One Level Parking Deck over Parking Lot 'A'**

Issued by:  
East Stroudsburg University of Pennsylvania  
Monroe County  
East Stroudsburg, PA 18301  
of the  
State System of Higher Education  
of the  
Commonwealth of Pennsylvania

RFP No. ESU 30-P1406A

Issue Date: November 1, 2012

Response Date: December 7, 2012



East Stroudsburg University of Pennsylvania  
of the  
State System of Higher Education

RFP No. ESU 30-P1406A

**TABLE OF CONTENTS**

Part I – General Information

Part II – Description of the Organization

Part III – Work Statement

Part IV – Information Required of the Professionals

Part V – Criteria for Selection

**APPENDICES**

Appendix A - Sample contract agreement, State System of Higher Education *Standard Form of Agreement for Professional Design Services (71K130)*

Appendix B – PASSHE Form 150 ASP – Application for Specific Project

Appendix C – PA Business Certification Form

Appendix D - Contract Compliance Requirements form

Appendix E – Professional Fee Cost Principals

East Stroudsburg University of Pennsylvania  
of the  
State System of Higher Education

RFP No. ESU 30-P1406A

**Part I**  
**General Information**

**I-1 Purpose.**

This Request for Proposals (RFP) provides interested Professionals with sufficient information to enable them to prepare and submit Proposals for consideration by East Stroudsburg University of Pennsylvania (ESU or the 'University'), of the State System of Higher Education (PASSHE) of the Commonwealth of Pennsylvania, concerning the need for Professional Design Services for the design of Project No. ESU 30-1406A, Construct a One Level Parking Deck Over Parking Lot 'A'.

The System encourages responses from small firms, minority firms, women owned firms, and firms which have not previously worked for the System, and will consider joint ventures which will enable these firms to participate in System professional services contracts.

**I-2 Problem Statement.**

East Stroudsburg University is seeking a professional design firm to plan, design and provide construction administration support services for Project No. ESU 30-1406A, Construct a One Level Parking Deck Over Parking Lot 'A' (Lot 23), on the Campus of East Stroudsburg University. The site of the proposed parking deck is east of South Green Street and north of Dansbury Commons and Normal Street, over an existing surface parking lot, on the Campus of East Stroudsburg University in the Borough of East Stroudsburg Pennsylvania. The goal is to construct the maximum number of parking spaces possible within the existing parking lot site and comply with all federal, state and local laws and regulations. The University desires to construct the one level parking deck in such a manner that one to three additional parking levels could be added in the future.

**I-3 Issuing Office.**

This RFP is being issued for PASSHE by the issuing office listed below. The issuing office is the sole point of contact for this RFP. Please refer all inquiries to:

William P. Pierson  
Assistant Director of Facilities Management  
Facilities Management Complex  
East Stroudsburg University  
200 Prospect Street  
East Stroudsburg, PA 18301-2999  
Phone: 570-422-3075; Fax: 570-422-3777  
e-mail: [bpiereson@esu.edu](mailto:bpiereson@esu.edu)  
Web site: [www.esu.edu/procurement](http://www.esu.edu/procurement)

**Utilizing the eProcurement Exchange (reference section IV-5), proposers must submit their proposal by December 7, 2012, 2:00 PM EST.** If a supplier does not have the capability to use this eProcurement tool, please notify the issuing office.

Note that only information supplied by the issuing office, including responses to questions regarding the RFP, should be used in preparing professional services proposals. Any and all other contacts or information received regarding the subject prior to the release of this RFP should be disregarded in preparing responses.

From the issue date of this RFP until a determination is made regarding the selection of a design professional, all contacts concerning this RFP must be made through the issuing office. Any violation of this condition is cause for ESU to reject a design professional's proposal. If it is later discovered that any violations have occurred, ESU may reject any proposal.

**Pertinent Dates:**

- Questions accepted up through: **November 28, 2012, 2:00PM EST**
- Responses to questions will be posted as received; final responses will be posted by close of business **November 30, 2012.**
- Submission Deadline: **December 7, 2012, 2:00PM EST**

**I-4 Scope.**

This RFP contains instructions governing the responses to be submitted and the material to be included therein, a description of the services to be provided, requirements which must be met to be eligible for consideration, and contract terms and conditions.

**I-5 Proposer Responsibilities.**

Proposers will be expected to register at PASSHE's eProcurement Exchange in order to submit proposals.

**I-6 Pre-Proposal Conference.**

There is no pre-proposal conference currently planned or scheduled.

**I-7 Addenda to the RFP.**

If it becomes necessary to revise any part of this RFP, addenda will be posted at [PASSHE's eProcurement Exchange](#).

The information contained on this web site is current and accurate. It is the Proposer's responsibility to check this site periodically to obtain any changes to the solicitation. Proposers must acknowledge all addenda in their proposal response. Proposers who fail to submit current copies of the solicitation may be deemed non-responsive. Proposers who do not have access to the Internet should notify the Issuing Office.

**I-8 Response Date.**

To be considered, proposals must be submitted utilizing the eProcurement Exchange on or before the Submission Deadline listed in paragraph I-3 – Issuing Office, above. Proposals received after the Submission Deadline date and time will not be accepted.

**I-9 Proposals.**

To be considered, proposals must:

- Proposers shall submit a complete response to this RFP.
- Proposals shall use the format provided in Part IV of this RFP.
- Proposals must be submitted utilizing the eProcurement Exchange (reference Paragraph I-5 – Proposer Responsibilities above). If a proposer does not have the capability to use this eProcurement tool, please notify the Issuing Office.
- Proposals must consist of a complete response to the requirements outlined herein and shall be submitted to the Issuing Office no later than the Submission Deadline listed in paragraph I-3 – Issuing Office, above (date and time).
- Proposals shall be signed by an official authorized to bind the Proposer to the provisions of this RFP and a potential Contract.
- No other distribution of proposals shall be made by the Proposer.

The contents of a selected design professional's Proposal will become contractual obligations if a Contract is entered into. Paragraphs or conditions with the design professional's Proposal that are in conflict with the intent of this RFP or in conflict with the potential Contract will not be valid.

For this RFP, the proposal, as submitted, must remain valid during the entire solicitation, award, and contract finalization process.

**I-10 Cost Data and Negotiation of Fees.**

Do not submit any cost and pricing information with the Proposal.

Prior to entering into a Contract, negotiations regarding fees will be undertaken with the design professional (i) whose proposal shows them to be the best qualified, responsible, and capable of performing the work, and (ii) who, in the judgment of the University Selection Board, was rated is best qualified against defined selection criteria. Contract negotiations will be pursued with the selected professional design firm who's Proposal best meets the financial, contractual, and technical and support requirements of the University.

The negotiation of fees and the submission of cost data will only be required from the professional design firm selected for the project in accordance with the selection criteria and processes cited in this RFP. If the negotiations of fees fail with the selected firm, the University may move on to the next highest rated firm.

**I-11 Rejection of Proposals.**

ESU reserves the right to reject any and all responses received from design professionals as a result of this RFP and to cancel this solicitation at any time prior to the execution of any contract.

**1-12 Prime Proposers and Subconsultants.**

Eligible firms can propose as a prime proposer and as a subconsultant with another prime proposer. Any use of Subconsultants must be approved in writing by ESU. Prime proposers are encouraged to solicit quotes from Minority and Women-Owned Business Enterprises when requiring Subconsultants.

A Proposer should submit the entire team necessary to perform the requested design services.

The team proposed is intended to be the team used for the design of the project throughout the life of the project. Changes will be permitted as business relationships change and/or as additional special capabilities are required.

**I-13 Proposer Responsibility Program.**

Proposers must certify that they are not currently under suspension or debarment by the Commonwealth of Pennsylvania, any other state, or the federal government to the best to their knowledge. Additionally, Proposers must certify that they are not tax delinquent with either the Pennsylvania Department of Revenue or the Pennsylvania Department of Labor and Industry to the best of their knowledge. Proposers must acknowledge that, if they are currently under suspension or debarment, or if they owe delinquent taxes, their proposal may not be accepted or considered. Proposers shall certify to all of the above upon submittal of their proposal.

**I-14 Economy of Preparation.**

Proposals should be prepared simply and economically, providing a straightforward, concise description of the design professional's ability to meet the requirements of this RFP.

**I-15 Incurring Costs.**

ESU is not liable for any costs or expenses incurred by design professionals in the preparation or submission of their proposals or for attendance at any conferences or meetings related to this RFP.

**I-16 On-Site Presentation.**

Proposers who meet the initial qualification criteria may be required to make an onsite presentation. The outline for the material to be covered in the presentation will be provided to Proposers approximately one to two weeks in advance of the presentation date. All Proposers will be given the same outline to ensure the presentations are consistent. All presentations will be held at the same location and each Proposer shall be allowed the same amount of time for their presentation. All costs associated by such presentations will be borne by the Proposer. Promotional items shall not be provided at these presentations.

**I-17 Disclosure of Proposal Contents.**

All responses to this procurement opportunity are subject to the Pennsylvania Right-to-Know Law, 65 P.S. §66.1 et seq., effective January 1, 2009 (Act 3 of 2008).

The Right-to-Know Law permits any requestor to inspect and/or copy any record prepared and maintained or received in the course of the operation of a public office or agency that is not subject to the exceptions enumerated in the law.

If the design professional submits a Proposal that becomes the subject of a Pennsylvania Right-to-Know Law request, the design professional will be asked by the University to identify all financial, privileged, confidential, and proprietary information that is included in the Proposal. This information may be exempt from disclosure in responses to a request.

All submitted materials become the property of the Commonwealth of Pennsylvania and may be returned only at the Commonwealth's option.

The Commonwealth has the right to use any or all ideas presented in any reply to this RFP. Selection or rejection of the responses does not affect this right.

**I-18 Contract.**

The selected professional design firm, after successful fee negotiations, will be required to sign the State System of Higher Education *Standard Form of Agreement for Professional Design Services (71K130)*. A copy of a sample of this Standard Form of Agreement is provided as Appendix A.

The University reserves the right to not award a Contract as a result of this RFP.

**I-19 Prime Professional Responsibilities.**

A selected Professional is considered to be the "Prime Professional" and will be required to assume responsibility for all services offered in the Proposal whether or not they are produced directly by the Prime Professional's firm.

The System will consider the selected Prime Professional to be sole point of contact with regard to all contractual matters.

**I-20 Debriefing Conferences.**

All Proposers whose proposals are not selected will be notified of the name of the selected proposer and will be given the opportunity to be debriefed.

Upon written request to the Issuing Office, a proposer may be orally debriefed. The purpose of the debriefing is not to compare proposals, but to provide information that may assist individual proposer in preparing future proposals.

Requests for oral debriefing shall be made in writing to the attention of the Issuing Office within 14 days after the University publishes the announcement of selection. The Issuing Office will schedule the date, time, and location of all debriefings.

The University is not legally required to debrief proposers. However, the University elects to provide an opportunity for debriefings as a professional courtesy. Since this RFP is expected to draw a large number of proposals, the University reserves the right to determine if and how debriefings will be conducted.

**I-21 News Releases.**

News releases pertaining to this RFP may not be made without prior University approval, and then only in coordination with the Issuing Office.

**1.22 NON-DISCRIMINATION CLAUSE:**

By submission of a proposal, and during the term of any resultant contract, the design Professional firm agrees to abide by the Nondiscrimination Clause as stated in Rider C of the State System of Higher Education Standard Form of Agreement for Professional Design Services.

**1.23 PROFESSIONAL INTEGRITY PROVISIONS:**

By submission of a proposal, and during the term of any resultant contract, the design Professional firm agrees to abide by the Professional Integrity Provisions as stated in Rider F of the State System Higher Education Standard Form of Agreement for Professional Design Services.

END OF PART I

East Stroudsburg University of Pennsylvania  
of the  
State System of Higher Education

RFP No. ESU 30-P1406A

**Part II**  
**Description of Organization**

**II-1 Sites.**

The Pennsylvania State System of Higher Education (“PASSHE”) comprises 14 universities, four branch campuses, several regional centers, and the McKeever Environmental Learning Center. The Universities are situated in rural, suburban, and small-town settings throughout Pennsylvania, in the communities of Bloomsburg, California, Cheyney, Clarion, **East Stroudsburg**, Edinboro, Indiana, Kutztown, Lock Haven, Mansfield, Millersville, Shippensburg, Slippery Rock, and West Chester. The four branch campuses are in Oil City (Clarion), Kittanning and Punxsutawney (Indiana), and Clearfield (Lock Haven). The Office of the Chancellor is situated in the capital city of Harrisburg at the Dixon University Center.

**East Stroudsburg University of Pennsylvania (ESU)** was founded in 1893 as a normal school to prepare teachers; it obtained University status in 1983. The Campus incorporates 1.43 million gross square feet in 60 buildings on 164 acres including plazas, sculptures, and recreational fields surrounding classroom, laboratory, and support buildings, in the Borough of East Stroudsburg, and 93 acres in Smithfield Township, Pennsylvania just 75 miles west of New York City. In addition to the academic facilities, there are eight residence halls, housing 2,424 students, and a 1,000 seat-dining hall located on campus. Total student population is approximately 7,200.

**II-2 Mission.**

As established by the founding legislation, Act 188 of 1982, the primary mission of PASSHE “is the provision of instruction for undergraduate and graduate students to and beyond the master’s degree in the liberal arts and sciences, and in the applied fields, including the teaching profession.” While the Universities share a common mission, each also embraces specific spheres of excellence. Additionally, the purpose of PASSHE is “to provide high quality education at the lowest possible cost to students.”

**II-3 Governance.**

A 20-member Board of Governors, which comprises four legislators, three students, the Governor or a designee, the Secretary of Education or a designee, and 11 citizens appointed by the Governor, sets general policy for PASSHE.

**II-4 Organization.**

The Board of Governors has “overall responsibility for planning and coordinating the development and operation of the System.” The Board appoints the Chancellor, who serves as the chief executive officer of PASSHE, and the University presidents. Each University has an 11-member council of trustees, which carries out Board policy and deals with a variety of local issues. The Chancellor is an ex-officio member of each council.

**II-5 Academic Programs.**

Universities in PASSHE provide a wide range of associate’s, bachelor’s, master’s, and doctoral degree programs, offering teacher, administrator, and supervisory certificates, as well as a range of lifelong learning opportunities. More than 250 degree and certificate programs in more than 120 areas of study are offered. Prerequisite coursework and counseling are afforded students planning to enter professional schools for engineering, health-related sciences, and



law.

Indiana University of Pennsylvania (IUP) offers graduate instruction at the doctoral level. Other PASSHE Universities also may offer doctoral programs in conjunction with IUP or with any other institution chartered to award doctoral degrees. The Universities are fully accredited by the Middle States Association of Colleges and Schools. Academic programs are individually accredited by appropriate national organizations.

#### **II-6 Enrollment.**

Approximately 107,000 undergraduate and graduate, part-time and full-time, students attend PASSHE Universities. More than 90% are in-state students, and 64% of recent bachelor's degree alumni remain in Pennsylvania after graduation for their first job or to continue their education.

#### **II-7 Facilities.**

The total University campuses comprise approximately 4,900 acres. More than 900 buildings (approximately 26 million square feet) house classrooms, residences, administrative offices, and student support services.

#### **II-8 Alumni.**

There are more than 617,000 PASSHE alumni, including more than 405,000 who live in Pennsylvania.

#### **II-9 Employees.**

PASSHE employs more than 12,000 professional and support staff, most covered by collective bargaining agreements, making it the 15th largest employer in the state.

#### **II-10 Costs (2011-12 Rates).**

Tuition at PASSHE Universities is \$6,240 per year for full time Pennsylvania undergraduate students and \$15,600 per year for full time nonresident students. The graduate student tuition is \$7488 per year for full time Pennsylvania residents and \$11,232 per year for full time nonresidents. Full time resident students also pay a \$348 a-year instructional technology fee; full time nonresidents pay \$526 per year. Room and board charges vary, as do local fees. Students may apply for a variety of state and federal financial assistance programs, and campus scholarships, grants, and loans.

#### **II-11 History.**

The state universities spent the first 100 years of existence training teachers for Pennsylvania's schools. The Normal School Act of 1857 established regional teacher training institutions throughout the Commonwealth. The School Code of 1911 called for the state purchase of all normal schools, and by 1921 the current configuration of 14 state-owned Universities was established. The 14 normal schools evolved from state normal schools, to state teachers' colleges, to state colleges. On November 12, 1982, Act 188 was signed into law establishing the Pennsylvania State System of Higher Education on July 1, 1983. Thus, the 13 former state colleges joined with Indiana University of Pennsylvania to achieve university status.

END OF PART II

East Stroudsburg University of Pennsylvania  
of the  
State System of Higher Education

RFP No. ESU 30-P1406A

**Part III  
Work Statement**

**III-1 Objective.**

The purpose of this Request for Proposals (RFP) is to solicit proposals from highly qualified professional design firms to plan, design and provide construction administration support services for Project No. ESU 30-1406A, Construct a One Level Parking Deck Over Parking Lot 'A' (Lot 23), on the Campus of East Stroudsburg University. The site of the proposed parking deck is east of South Green Street and north of Dansbury Commons and Normal Street, over an existing surface parking lot, on the Campus of East Stroudsburg University in the Borough of East Stroudsburg Pennsylvania. The goal is to construct the maximum number of parking spaces possible within the existing parking lot site and comply with all federal, state and local laws and regulations. The University desires to construct the one level parking deck in such a manner that one to three additional parking levels could be added in the future.

The minimum net gain in parking spaces expected as a result of this project is 220 parking spaces.

The University estimated construction cost allocation is \$5,000,000.

**III-2 Scope of Professional Services.**

The selected design professional will be required to provide professional design services for Project Number ESU 30-1406A from the schematic design through the completion of construction in accordance with Rider B – General Conditions, of the State System of Higher Education *Standard Form of Agreement for Professional Design Services (71K130)*; a copy of a sample of this Standard Form of Agreement is provided as Appendix A.

The University anticipates that the following tasks, listed as additional services in Rider B – General Conditions of the Standard Form of Agreement, will be required and requests that these services be provided as basic services (clearly priced in the fee proposal to be provided by the selected design professional).

- Topographic and Utility Surveys
- Geotechnical Services (during design)
- Traffic Study as required by the Borough of East Stroudsburg
- Storm water management plan and NPDES Permit modification as required by the Monroe County Conservation District.

The University anticipates that the following additional services will be required and requests that these services be provided on a time and materials basis as reimbursable costs of the design services contract (clearly priced in the fee proposal to be provided by the selected design professional).

- Geotechnical test borings to be provided during the design process. The selected design professional will be expected to obtain three quotes for these services during the design process and recommend the proposed / selected subcontractor to the University for approval.
- Quality control testing services during construction to include at a minimum soils testing, asphalt testing, concrete testing and steel inspections. The selected design professional will be expected to obtain three quotes for these services during the design process and recommend the proposed / selected subcontractor to the University for approval.

**III-3 Special Requirements.**

- A. The University requires all drawings, except schematic design sketches, to be prepared by the design professional using a Computer Aided Design (CAD) system. Copies of the bid documents and record (as-built) drawings shall be provided to the University in hard copy, DWG and PDF format.
- B. Proposers are advised that the University may use a professional construction management firm to review the design submissions for constructability and value engineering.

END OF PART III

East Stroudsburg University of Pennsylvania  
of the  
State System of Higher Education

RFP No. ESU 30-P1406A

**Part IV  
Information Required from Proposers**

**IV-1 Required Information.**

The Proposer shall submit a complete Proposal as described below by uploading the Proposal to the eProcurement Exchange on or before the Submission Deadline listed in paragraph I-3 – Issuing Office, above.

Proposals shall be formatted and indexed in Parts as follows:

- Part 1 – Letter of Interest
- Part 2 – Application for Specific Project, PASSHE Form 150 ASP (See Appendix B)
- Part 3 – Management Summary
- Part 4 – Performance Summary
- Part 5 – PA Business Certification (See Appendix C)
- Part 6 – Other Information

Non-responsive Proposals will not be considered. A Proposal may be considered non-responsive if any of the following occur:

- (1) The Proposal is not uploaded into eProcurement Exchange by the date/time specified.
- (2) The Proposal does not include all requirements specified in this RFP.
- (3) An Addendum is not acknowledged in the Proposal, if acknowledgement is required by the Addendum.
- (4) A Proposal includes other errors and/or omissions that are deemed to be fatal flaws by the Issuing Office or the Selection Boards.

The System, at its discretion, can determine if flaws found in the Proposal are fatal or non-fatal flaws.

A fatal flaw is one that provides sufficient cause for the System to determine that the Proposal does not meet critical requirements of the RFP.

A non-fatal flaw is one that does not affect the integrity of the Proposal nor the ability of the System to have the Proposal reviewed by the Selection Board.

**IV-2 Description of Required Information.**

Part 1 – Letter of Interest

The letter of interest shall include, at a minimum:

- A. Point of Contact – Identify the Proposer’s point of contact for correspondence regarding this RFP including name, title, mailing address, telephone number, fax number, and e-mail address.
- B. A statement (not greater in length than one 8-1/2’ x 11” page) which illustrates the Proposer’s experience in designing parking decks and garages.
- C. A statement (not greater in length than one 8-1/2’ x 11” page) which illustrates your proposed schedule for completing the design of the proposed parking deck (note: actual schedule will be negotiated between the University and the successful proposer).
- D. A statement as to the number of geographical miles from the office that will provide professional design services from the University Campus.
- E. The Proposer shall list any and all Addenda identifying them by Addendum number and date.

## Part 2 – Application for Specific Project, PASSHE Form 150 ASP (See Appendix B)

The Proposer shall complete and sign PASSHE Form 150 ASP. The Proposer does not need to repeat information that is included in the other Parts of the Proposal. If information would be duplicated in the form, cross reference to the other Parts of the Proposal.

In sections 9 and 10 – Key Personnel, list only those key employees that your firm anticipates will be assigned to project number ESU 30-1406A during the term of this contract.

## Part 3 – Management Summary

- A. Team Organization. The Proposer shall provide a brief narrative discussing the Proposer's team and organization to provide services under the contract. The narrative should reflect the Organization Chart, and should include:
- (1) information as to the history of the team members having worked together,
  - (2) how each member will be responsible to the team to perform in the best interest of the project and the University, and
  - (3) how the prime Professional will provide coordination and control over the team.
- B. Utilization of Disadvantaged Businesses. The Proposer shall provide narrative or factual information on utilization of Disadvantaged Businesses, to include the firm's specific approach for the utilization of Disadvantaged Businesses on the team proposed for this project.

If the Proposer is a Disadvantaged Business, PASSHE Form 150 provides a place where they can so identify themselves. This fact should also be simply stated in this narrative section.

The System considers Disadvantaged Businesses to not only include firms registered under the Commonwealth of Pennsylvania MBE/WBE Program, but also firms registered under other states' programs, municipal programs, and Federal programs, and may include Small Business, Socially-Disadvantaged Businesses, Economically-Disadvantaged Businesses, and other similar protected classes of businesses.

## Part 4 – Performance Summary

The Proposer shall provide a narrative that attempts to sell the proposed design team. The Proposer should attempt to address those capabilities, experience, or services that they believe allow them to stand out from the other Proposers. Referenced items (samples, reports, etc.) may be provided at Part 6.

Possible items to be addressed could include items such as descriptions of:

- 1) Proposer's strongest assets and/or services that are related to this project.
- 2) Proposer's approach to customer care, and how their approach and performance in this area stand out.
- 3) Proposer's approach to control and adherence to budget and schedule, and how their approach and performance in this area stand out.
- 4) Proposer's approach and methodology for controlling quality of design documents, and how their approach and performance in this area stands out.
- 5) Proposer's software and IT systems (CADD, BIM, etc.) and approach to their use, and how their approach and performance in this area stand out.
- 6) Proposer's capabilities and history in LEED design and/or other similar documentable sustainability standards.
- 7) Any other information deemed relevant to the Project and/or abilities and services that might make the firm stand out.

Part 5 – PA Business Certification (See Appendix C)

The Business Certification Form shall be completed. If an application process has started with the Commonwealth and is not complete on the Proposal Due Date, explain the circumstances in the Proposal. A Contract shall not be issued to a Proposer for signature if a certification is pending. If the University determines that a Proposer without certification is the best qualified proposer, then the Proposer shall submit documented evidence of certification to the Issuing Office no later than the time the University has set for receipt of a fee proposal from the selected design professional.

Part 6 – Other Information

In addition to the information listed above, other materials may be provided to show the applicability of the firm's experience in similar projects.

Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the Proposal.

**IV-3 Non-Discrimination.**

The selected professional design firm shall be required to submit a signed copy of the Appendix D - Contract Compliance Requirements form upon request by the University. Any questions the Proposer may have in this regard may be directed to Issuing Office for this RFP.

END OF PART IV

East Stroudsburg University of Pennsylvania  
of the  
State System of Higher Education

RFP No. ESU 30-P1406A

**Part V**  
**Criteria for Selection**

**V-1 Selection Process.**

All Proposals submitted are subject to review by the University Selection Board and System representatives. The Board Members are free to make judgments concerning any Proposal based on the member's experience, interpretation of information contained in the Proposal, and information known by and available to the System.

All recommendations for selection made by the Board shall be final pursuant to the *Act 188 of 1982 (24 P.S. §§ 20-2001A, et seq.)*.

A. Selection Board.

The Selection Board will:

- Follow policies and procedures established by the System and the University.
- Review qualifications of Proposers and identify Proposers deemed to be the most highly qualified to provide the services required.
- Review form and content of the Proposal.
- Base reviews on the Evaluation Criteria stated in this RFP.
- Utilize an evaluation process and detailed selection criteria specifically developed for this RFP.
- At the Selection Board's sole discretion, the Selection Board may identify the three to five highest qualified and schedule and conduct on site interviews with these firms.
- Rank Proposers in priority order by qualifications, and formally transmit the results to the Issuing Officer. The Issuing Officer will recommend to the Contracting Officer the Proposer to be selected.

B. Negotiation Board.

The University will attempt to negotiate a fair and reasonable fee with the firm rated best qualified. Negotiations will be opened with the next highest rated firm only if a fair and reasonable fee cannot be established with the firm rated best qualified.

If negotiations are entered into, the University will request a fee proposal and financial information from the design professional in order to evaluate billable rates, overhead rates and the proposed fee.

For cost principles that will be applied in negotiations of the Contract, see Appendix E – Professional Fee Cost Principals.

C. Legislated Criteria.

Act 188 of 1982 (24 P.S. §§ 20-2001A, et seq.)

Act 57 of 1998 (62 Pa.C.S.A. 101 et seq.), Commonwealth Procurement Code

The System is mandated by the above stated legislation to perform the selection of architects and engineers with consideration given to, but not limited to, the following factors:

1. Equitable Distribution of contracts among qualified architects and engineers;
2. Capability To Perform the design and construction services for the contract being considered;

3. Geographic Proximity of the architect or engineer to the proposed facility;
4. Ability of the architect or engineer to furnish the necessary available manpower to perform the services required by the project; and
5. Any Other Related Circumstances peculiar to the proposed contract.

## **V-2 Evaluation Criteria.**

Evaluation of Proposals. For Proposals that have been submitted in accordance with Part IV of this RFP, the following areas will be considered in evaluating Proposals and making selections:

### **A. The Firm's Qualifications.**

This refers to the Proposer's demonstrated experience, past performance, qualifications, and capabilities relative to providing the service offered and called for in the RFP.

Evaluations will consider:

- The quality and relevance of similar services that have been completed by the Proposer on similar projects, how recently those similar services have been performed, and how those services relate to the University's needs and objectives.
- The Proposer's ability to provide design services for the project, including associations with subcontracted firms.
- Other related criteria established by the Selection Board.

References may be contacted.

This Criteria will have a higher weight.

### **B. Personnel Qualifications.**

This refers to the experience, qualifications, and performance of personnel proposed for this project.

Evaluations will consider:

- The quality and relevance of services that have been completed by the personnel on similar projects and how recently those similar services have been performed.
- The education and credentials of the proposed personnel.
- Other related criteria established by the Selection Board.

References may be contacted.

This Criteria will have a higher weight.

### **C. Management and Technical Approach.**

This refers to the Proposer's effective and efficient management of the project, the Proposer's ability to respond to the University's needs, the Proposer's technical concepts for providing the services, and any unique and/or outstanding aspects of those services that make the Proposer stand out.

Evaluations will consider primarily those items presented in Parts 3 and 4 of the proposal.

This Criteria will have a lesser weight.

### **D. Additional Criteria.**

In addition to the above criteria, the Selection Board may also consider the following criteria in ranking the short listed firms. Data for evaluating these criteria will be taken from the interviews with, and the presentations by, the short listed firms.

- 1) Communications: This refers to the effectiveness and efficiency of the communications of the professional design firm and its key personnel. The selected design firm must be able to express their ideas clearly in a way that University personnel can understand.



- 2) Chemistry: This refers to the rapport between the University and the professional design firm and between the key personnel of the firm and the key personnel of the University.

This Criteria will have a lesser weight.

END OF PART V

O:\PLANNING\PROJECTS\PROJECT CORRESPONDENCE\1406A Construct 1-level Parking Deck Lot A\1406A RFP for Design Services\1406A Draft RFP for Des Services.doc

PENNSYLVANIA STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES

Agreement No. 30-P1406A

AGREEMENT made

as of this [---date---] day of [---month---], 2012,

at Monroe County,

by and between

**East Stroudsburg University of Pennsylvania**  
of the State System of Higher Education,  
Commonwealth of Pennsylvania,  
hereinafter called the "**System**"

AND

[---name of firm---]

[---street address or principal place of professional's business---],

an [---individual, partnership or corporation---],

Federal Identification No. [---FID number---],

hereinafter called the "**Professional**".

The Professional shall act as the designer and project administrator for the professional services prescribed in this Agreement for the duration specified for a project for **Construct a One Level Parking Deck Over Parking Lot 'A' (Lot 23)** (hereinafter called the "PROJECT"), designated as Project No. **ESU 30-1406A**, and as more particularly described in the "SCOPE" attached hereto as Rider A, which is made a part hereof.

The System and the Professional in consideration of their mutual covenant herein agree in respect of the performance of professional architectural and engineering services by the Professional and the payment for those services by the System as set forth below and in *Riders A, B, C, D, E, and F*.

**WITNESSETH THAT:**

The parties hereto, intending to be legally bound hereby, do agree as follows:

**1. RETAINER OF PROFESSIONAL.**

The System hereby retains the Professional to provide all necessary design services and to administer and review the Construction Phase for the Project.

**2. TIME SCHEDULE.**

The time schedule established by negotiation for completion of the several phases is:

	Complete on or Before
A. Schematic Design Phase	weeks from Notice to Proceed
B. Preliminary Design Phase	weeks from approved Schematics
C. Pre-Final Design Phase	weeks from approved Preliminary Design
D. Final Design Phase	weeks from approved Pre-Final Design
E. Bid and Award of Contracts	weeks from approved Final Design
F. Construction Phase	months from Notice to Proceed to Contractors

**3. ADHERENCE TO TIME SCHEDULE.**

The Professional shall strictly adhere to submission schedules set forth in Paragraph 2. Should the Professional become aware that he will be unable to meet any of the dates set forth in Paragraph 2, the Professional shall immediately notify the System in writing. The Professional shall include in the notice the reason(s) for the Professional's inability to meet the date(s) and a request that the System amend the time schedule. The System shall review the Professional's notice and determine whether or not to amend the time schedule.

If the System determines that the delay is due to the fault of the Professional, the System may

- (A) amend the schedule and direct the Professional to expeditiously proceed with the design of the Project, in which case the System may hold the Professional responsible for any costs attributable to the delay, or
- (B) terminate the Agreement for default of the Professional, in accordance with the provisions of the General Conditions.

If the System determines that the delay is not due to the fault of the Professional, the System may amend the time schedule. The Professional agrees that such an amendment of the time schedule is his exclusive remedy for a delay and that he may not make any claims against the System for increased costs due to the delay.

**4. COMPENSATION AND COST ALLOCATION.**

The Professional's compensation, negotiated for **Basic Services**, shall be \$ \_\_\_\_\_, and for **Special Conditions** shall be \$ \_\_\_\_\_, for a **Total Compensation** to be rendered under this Agreement to be \$ \_\_\_\_\_, to be paid according to the provisions of *Rider B, Exhibit D - Basic Services Compensation and Payment Schedule* and *Rider D-Special Conditions*.

The construction cost allocation for this project is \$5,000,000.00. It is a condition of the Agreement that the Professional design this project within the Allocation unless that Allocation is changed in accordance with the terms and conditions of this Agreement.

**5. EXECUTION AND RIDERS.**

No agreement shall be effective until executed by all necessary Commonwealth officials as provided by law. The terms, requirements, conditions, and considerations of this Agreement are specified in *Riders A, B, C, D, E and F*, which are attached herein and made a part of the Agreement.

- Rider A - Scope & Specifications of Work*..... consisting of \_\_ pages
- Rider B - General Conditions*..... consisting of \_\_ pages
- Rider C - Nondiscrimination Clause* ..... consisting of \_\_ pages
- Rider D - Special Conditions*..... consisting of \_\_ pages
- Rider E - Standards of Practice* ..... consisting of \_\_ pages
- Rider F - Professional Integrity Provisions* ..... consisting of \_\_ pages

[THE REMAINDER OF THIS PAGE DELIBERATELY LEFT BLANK.]

IN WITNESS WHEREOF, this Agreement has been executed and delivered as of the date set forth in the caption hereof, for University Project No. ESU 30-1406A.

FOR THE PROFESSIONAL:

FOR THE COMMONWEALTH:

\_\_\_\_\_  
Individual or Partner  
(If Professional is an individual or Partnership)

\_\_\_\_\_  
Richard A. Staneski  
Vice President for Finance and Administration  
East Stroudsburg University of Pennsylvania  
of the State System of Higher Education

Or

\_\_\_\_\_  
President or Vice President  
of Corporation (circle one)

\_\_\_\_\_  
Office of the Chancellor

And

Approved as to Form and Legality:

\_\_\_\_\_  
Secretary or Treasurer  
of Corporation (circle one)

\_\_\_\_\_  
University Legal Counsel  
State System of Higher Education

\_\_\_\_\_  
Deputy Attorney General  
Commonwealth of Pennsylvania

**STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES**

**TABLE OF CONTENTS**

**RIDER A - SCOPE AND SPECIFICATIONS OF WORK TO BE PERFORMED**

**RIDER B - GENERAL CONDITIONS**

- Article 1 - Material Incorporated into Agreement
- Article 2 - The Professional's Responsibilities and Services
- Article 3 - The System's Responsibilities and Duties
- Article 4 - The Professional's Compensation and Payment
- Article 5 - Observance of Laws and Proprietary Items
- Article 6 - Insurance
- Article 7 - Suspension, Termination, and Reactivation of Work
- Article 8 - Provisions Required by Pennsylvania Law or Federal Law to be Deemed Inserted
- Article 9 - Definitions
  
- Exhibit A - Options for Proceeding with Design When Cost Estimates Exceed Allocation
- Exhibit B - Preparation and Reproduction of Bidding Documents
- Exhibit C - Additional Services
- Exhibit D - Basic Services Compensation and Payment Schedule

**RIDER C - NONDISCRIMINATION SEXUAL HARRASSMENT**

**RIDER D - SPECIAL CONDITIONS**

**RIDER E - STANDARDS OF PRACTICE**

**RIDER F - PROFESSIONAL INTEGRITY PROVISIONS**

**STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES**

**RIDER A**

**SCOPE & SPECIFICATIONS OF WORK**

Project No. ESU 30-1406A, Construct a One Level Parking Deck Over Parking Lot 'A' (Lot 23), on the Campus of East Stroudsburg University. The site of the proposed parking deck is east of South Green Street and north of Dansbury Commons and Normal Street, over an existing surface parking lot, on the Campus of East Stroudsburg University in the Borough of East Stroudsburg Pennsylvania. The goal is to construct the maximum number of parking spaces possible within the existing parking lot site and complying with all federal, state and local laws and regulations. The University desires to construct the one level parking deck in such a manner that one to three additional parking levels could be added in the future.

The minimum net gain in parking spaces expected as a result of this project is 220 parking spaces.

The University estimated construction cost allocation is \$5,000,000.

**STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES**

**RIDER B**

**GENERAL CONDITIONS**

**ARTICLE 1**

**GENERAL PROVISIONS**

**1.1 MATERIAL INCORPORATED INTO AGREEMENT**

The Professional's work shall be governed by the following items that are deemed a part of the Professional Agreement:

- (1) these General Conditions,
- (2) the Engineering/Architectural Instructions for Facilities Projects of the State System of Higher Education in effect when the Professional Design Services Agreement is executed, and
- (3) any included Special Conditions.

The Engineering/Architectural Instructions shall be construed as supplementing these General Conditions. In case of any irreconcilable inconsistency, the General Conditions shall govern.

The following Exhibits are included as part of these General Conditions:

Exhibit A: Options for Proceeding with Design When Cost Estimate Exceeds Allocation

Exhibit B: Preparation and Reproduction of Bidding Documents

Exhibit C: Additional Services

Exhibit D: Basic Services Compensation and Payment Schedule

**1.2 JURISDICTION**

Any legal action arising from the terms and conditions of this contract shall be litigated exclusively in the Courts of the Commonwealth of Pennsylvania.

**1.3 NOTICES**

Wherever the term "notice" is used, such notices to be effective shall be in writing and if to the System shall be mailed certified mail, postage and fees prepaid, or delivered to the System, and if to the Professional shall be similarly mailed or delivered to him at this address set forth in the caption of this Agreement, unless and until notice of another address shall be given hereunder, in which case notices shall be so delivered or mailed to the address last so given.

**1.4 INTEGRATION**

This Agreement contains all the terms and conditions agreed to by the parties hereto, and no other agreements, oral or otherwise, regarding the subject matter of this Agreement exist.

**1.5**      **NO THIRD PARTY RIGHTS**

Nothing in this Agreement or in the General or Special Conditions or in any other document incorporated herein by reference or issued hereunder, expressed or implied, is intended to or shall be construed to confer upon, or give to, any person, firm or corporation or any Governmental Agency other than the System, its successors and assigns, and the Professional, any right, remedy or claim, legal or equitable, whether as third party beneficiary or otherwise; this Agreement and all provisions applicable hereto or incorporated herein being intended to be, and being for the sole and exclusive benefit of the System, its successors and assigns and the Professional.

**1.6**      **HOLD HARMLESS**

The Professional agrees to protect, indemnify, and save harmless the System from and against any and all liabilities, losses, damages, costs, expenses, causes of action, suits, claims, demands, or judgments of any nature arising from any injuries to, or the death of any person or any damages to property growing out of or connected with the work performed by the Professional under this Agreement to the extent that the same is caused by the negligence of the Professional, its employees, its agents, or its consultants.

**1.7**      **OFFSET PROVISIONS**

The Professional agrees that the Commonwealth may set off the amount of any state tax liability or other debt of the Professional or its subsidiaries that is owed to the Commonwealth and not being contested on appeal against any payments due the Professional under this or any other contract with the Commonwealth.

**1.8**      **DEBARMENT OR SUSPENSION**

The contracting officer shall recommend debarment or suspension action against the Professional whenever there is substantial evidence that a cause for debarment or suspension under the provisions of Act 1998-57–The Commonwealth Procurement Code and the provisions of this contract have occurred. The Professional shall be notified of such action and given reasonable opportunity shall to be heard by the agency head or his designee. The head of the agency shall determine debarment or suspension actions appropriate for the offense in accordance with the provisions of Act 1998-57–The Commonwealth Procurement Code.

**1.9**      **PROFESSIONAL RESPONSIBILITY PROVISIONS**

1.9.1      **Suspension or Debarment of Professional.** Professional certifies that it is not currently under suspension or debarment by the Commonwealth, any other state, or the federal government, and if the Professional cannot so certify, then it agrees to submit along with any proposal a written explanation of why such certification cannot be made.

1.9.2      **Suspension or Debarment of Subcontractors.** If the Professional enters into any subcontracts or employs under this contract any subcontractors/ individuals who are currently suspended or debarred by the Commonwealth or the federal government or who become suspended or debarred by the Commonwealth or the federal government during the term of this contract or any extensions or renewals thereof, the Commonwealth shall have the right to require the Professional to terminate such subcontracts or employment.

1.9.3      **Reimbursement for Investigations.** The Professional agrees to reimburse the Commonwealth for the reasonable costs of investigation incurred by the Office of Inspector General for investigations of the Professional's compliance with the terms of this or any other agreement between the Professional and the Commonwealth which results in the suspension or debarment of the Professional. Such costs shall include, but not be limited to, salaries of investigators, including



overtime; travel and lodging expenses; and expert witness and documentary fees. The Professional shall not be responsible for investigative costs for investigations which do not result in the Professional's suspension or debarment.

- 1.9.4 **Suspended or Debarred Professionals.** The Professional may obtain the current list of suspended and debarred Professionals by contacting:

Department of General Services  
Office of General Counsel  
North Office Building Room 603  
Harrisburg, Pennsylvania 17125  
Phone: 717-783-6472  
Fax: 717-787-9138

**1.10 EXCESS PREPARED FOOD**

The donation of Excess Prepared Food Clause has been determined by the University not to be applicable to this contract.

**1.11 RECYCLED MATERIALS**

Recycled Content Products has been determined by the University not to be applicable to this contract.

**1.12 AMERICANS WITH DISABILITIES ACT**

- 1.12.1 **Compliance.** Pursuant to federal regulations promulgated under the authority of The Americans with Disabilities Act, 28 C.F.R. 35.101 et seq., the Professional understands and agrees that no individual with a disability shall, on the basis of the disability, be excluded from participation in this contract or from activities provided for under this contract. As a condition of accepting and executing this contract, the Professional agrees to comply with the "General Prohibitions Against Discrimination" @ 28 C.F.R. 35.130, and all other regulations promulgated under Title II of the Americans with Disabilities Act which are applicable to the benefits, services, programs, and activities provided by the State System of Higher Education through contracts with outside contractors.

- 1.12.2 **Hold Harmless.** The Professional shall be responsible for and agrees to indemnify and hold harmless the Commonwealth of Pennsylvania, the State System of Higher Education, the University and their respective officers and employees from all losses, damages, expenses, claims, demands, suits, and actions brought by any party against any of the foregoing as a result of the Professional's failure to comply with the provisions of the paragraph above.

**1.13 ASSIGNMENT**

This Agreement is for the personal services of the Professional and performance hereunder may not be assigned or transferred by Professional without written consent of the System, but this provision shall not prevent an assignment for financing purposes of moneys due, or to become due under this Agreement, nor the retaining, by the Professional, on his own responsibility and at his own expense, of such specialized architects or Professional engineers as may be necessary for the proper design and development of the Project.

**1.14 AMENDMENT**

The Professional hereby acknowledges receipt of notice that no person has any authority to amend or modify this Agreement or waive any term or provision hereof except by written amendment hereto signed by the System Chancellor or Vice Chancellor for Finance and Administration, or their designee.

## 1.15 **REPRESENTATION AS TO QUALIFICATION**

The Professional specifically represents to and covenants with the System that he and his consultants, agents, servants, employees, officers and subcontractors possess and shall possess the experience, knowledge, and skills necessary to qualify them individually for the particular duties they perform.

## 1.16 **PROFESSIONAL EVALUATIONS**

In signing this Agreement, the Professional consents to the evaluation of its performance by the System and understands that any such evaluation may be used in future selections of Professionals. Furthermore, the Professional's consultants will also be evaluated. The Professional is required to notify each of its consultants that in contracting with the Professional, the consultant consents to the System's evaluation of the consultant and to the use of any such evaluation in future selections of Professionals.

## 1.17 **OWNERSHIP OF DOCUMENTS**

All preliminary studies, reports, working drawings, specifications, special requirements, costs estimates and all other data compiled by the Professional under this Agreement, shall not be copy written and shall become the sole property of the System.

## 1.18 **DISPUTES WITH THE SYSTEM**

1.18.1 **Continuance of Work.** The Professional shall carry on the work and maintain the progress schedule during any claims, disputes, questions, other related matters or proceedings unless otherwise agreed to in writing by the Professional and the System.

1.18.2 **Written Notification.** In the event of any dispute, claim, question or other matter (hereinafter called disputed item), the Professional shall immediately refer the disputed item in writing to the System Project Manager for a Determination, which said Determination shall be rendered in writing within a reasonable time.

1.18.3 **Time Limit for Notification.** Disputed items by the Professional must be made known by written notice within 21 days after occurrence of the event giving rise to such disputed item, or within 21 days after the Professional first recognizes the condition giving rise to the disputed item, whichever is later.

1.18.4 **Claims Procedure:** Determinations made by the System Project Manager shall be subject to the claims procedure as described herein. Any disputed item which the Professional may have against the System under this contract, except those settled under these provisions, shall be subject to the following procedure for the resolution of same:

1.18.4.1 **Dispute Conference:** Any disputed item which the Professional may have against the System under this contract or any breach thereof that has been referred to the System Project Manager, except as has been waived by the failure of the Professional to present a timely claim in accordance with this section, shall be subject to negotiation at a Dispute Conference. A Dispute Conference shall be scheduled by the System upon the written demand of the Professional if submitted no later than thirty (30) days after the date of the Determination by the System Project Manager.

1.18.4.2 **Pre-Claim Hearing.** Upon written demand by the Professional, all disputed items which the Professional may have against the System which have not been resolved at a Dispute Conference shall be heard at a Pre-Claim Hearing chaired by the System Director for Construction Management.

- 1.18.4.3 Time Period for Pre-Claim Hearing. No demand for a Pre-Claim Hearing shall be made later than
- thirty (30) days after the date on which the Professional has received a decision rendered by the System Project Manager as a result of a Dispute Conference, or
  - from the fortieth (40th) day after the Dispute Conference was held, if the Professional has not received a decision.

Failure to demand a Pre-Claim Hearing within the required time period shall result in the decision of the Dispute Conference becoming final and binding upon the Professional.

- 1.18.5 **Board of Claims.** All claims against the System arising out of this contract which have not previously been resolved at a Dispute Conference and subsequent Pre-Claim Hearing may be referred to the Board of Claims created by Act No. 193, approved May 20, 1937, P.L. 728, 72 P.S. as amended, in the manner and under the terms and conditions provided therein. The timely submission of any claim to a Dispute Conference and a Pre-Claim Hearing, in accordance with the provisions of Section 63.81 and 63.82 of the Act, respectively, shall be a condition precedent to the referral of such claim to the Board of Claims under the provisions of the section. Also, prior to filing a claim with the Board of Claims, the claim must have been first filed in writing with the contracting officer within six (6) months after it accrues and not thereafter.

## 1.19 **REVIEW OF DESIGN SUBMITTALS**

As part of the review effort of the University, design submittals may be subject to review by other Professional firms retained by the University. In all such cases, the design Professional shall be notified of the University's intent to do so.

## ARTICLE 2

### THE PROFESSIONAL'S RESPONSIBILITIES AND SERVICES

#### 2.1 BASIC SERVICES: GENERAL

- 2.1.1 **Included Items.** The Professional's Basic Services consist of phases hereinafter described, and include all architectural, structural, mechanical, and electrical engineering, and landscape architectural design and all other Professional services and administration of the design services during construction required for the project.
- 2.1.2 **Limited Budget Agreement.** This is a limited budget Agreement, meaning that it is the Professional's responsibility to promptly notify the System if, in the Professional's opinion, the Project cannot be designed and constructed within the Allocation as identified in Paragraph 4 - Compensation and Cost Allocation, on page 2 of the Agreement. The System shall then choose one of the options described in Exhibit A, and the Professional shall proceed in accordance with the terms defined therein.
- 2.1.3 **Professional Client Relationship.** The Professional is directly responsible to the System, and only the System may give instructions binding the System. Neither the System, nor the Professional can change a scope or direct that items be included in the design which will increase the cost above the Allocation without prior approval. The System may demand, with written justification to the Professional, the withdrawal from the project of any person employed by the Professional who the System deems to be insufficiently qualified for that portion of the work or who is incompetent or guilty of misconduct.
- 2.1.4 **Consultants.** The Professional's Compensation for Basic Services, except as otherwise specifically provided herein, includes the compensation for all necessary consultants in the several branches of the architectural and engineering professions, except the compensation and cost of any specialized consultants as described in Rider D - Special Conditions. The Professional is responsible for the work performed by his Consultant's and all of their work must conform to the requirements of the Agreement and the latest issued Engineering/Architectural Instructions Manual.
- 2.1.4.1 Limited Participation of Consultants. The relationship between the Professional and the Consultant limits the participation of the Consultant as follows:
- Other Bidding. A Consultant cannot individually or as a firm submit a bid directly or indirectly to the System, to any prime contractor or subcontractor, or to any contractor or firm submitting a bid on a project on which the Consultant has provided design or technical services for compensation.
  - Personal Interests or Holdings. A Consultant cannot individually or as a firm have any personal interest or holding in any firm or company that bids as a prime contractor, subcontractor or sub-subcontractor that has submitted a bid on any project on which the Consultant has provided design or technical services for compensation.
  - Personal Interests or Holdings. A Consultant cannot individually or as a firm have any personal interest or holding, in any firm that bids as a manufacturer, distributor, or supplier on any project on which the Consultant has provided design or technical services for compensation.
  - Commonwealth Employees. Consultants must inform the System of any current or former Commonwealth employees on his payroll.
- 2.1.5 **Progress Reports During Design.** For projects exceeding three months in length, the Professional shall, during all design phases, submit to the System monthly progress reports showing percentage of completion of work and any change in cost or schedule of submissions.

- 2.1.6 **Attendance at and Minutes of Conferences and Meetings.** The Professional, or his authorized representative, and the Professional's Consultants when appropriate, shall attend all meetings and conferences as required by the System, including conferences during the design phase, the bidding phase, The Construction Phase and the one-year maintenance period. The Professional shall within one week after each conference and meeting, submit to the System detailed minutes of all such meetings and conferences.
- 2.1.7 **Attendance and Testimony as Witness.**
- 2.1.7.1 Professional's Failure. In the event of a dispute between the System and any person concerning or involving the Professional's failure to design or administer the project in accordance with this Agreement, the Professional or the appropriate Consultant, or their qualified and authorized representative or representatives shall (1) attend all conferences, hearing and/or court proceedings, and, (2) if requested by the System, prepare testimony and testify, both as to facts and as to expert opinion, in all such proceedings on behalf of the System without any additional charge to the System.
- 2.1.7.2 Other Circumstances. In circumstances other than those concerning or involving the Professional's failure to design or administer construction in accordance with this Agreement, should the System ask the Professional to serve as an expert witness, the Professional shall provide the requested expert witness services for the actual cost of said services, and the Professional shall enter into an "Expert Witness Agreement" upon receiving a request for expert witness services from the System.
- 2.1.8 **Coordination with Existing Facilities and Utilities.** The Professional shall consult with the System and when appropriate, the Department of General Services, to obtain all necessary data for coordinating the Project with existing structures and all support utilities, future plans of the System, and all like services provided by public or private companies.
- 2.1.8.1 Utility Service to the Project. When utility systems are impacted, the Professional shall determine and obtain from the various public services and utility companies, such as gas, electric, water, steam, wastewater treatment/disposal, surface water disposal, telephone and communication, a written commitment of their capability to service this Project, and shall submit same as part of the pre-planning submission. Any reservations to this commitment by the utility companies, such as in-house engineering and project costs, shall be brought to the immediate attention of the System by the Professional. If utility services are not available at the site, the Professional must provide the location of the nearest available utility service.
- 2.1.8.2 Water and Sewage Disposal Facilities. When involved, the Professional's design shall include provisions for adequate water and sewage disposal services. Where water or sewage disposal are not readily available from the public services, the Professional's design responsibility shall, unless otherwise directed by the System, include the preparation of necessary plans and specifications for well drilling or for the sewage disposal systems, and the cost thereof shall be included in the Cost of the Project.
- 2.1.9 **Visits to Site and Obtaining Information.** During the Design Phases, the Professional shall visit the Project Site as required and shall obtain and study available record drawings, visual topographic data, and the System's available future plans (1) for the purpose of obtaining any and all pertinent or necessary information as to local conditions not required to be shown on the Plat of Survey and Report of Surveyor furnished to him by the System, (2) that may effect the design of the Project and may require the necessity for special provisions in the specifications. Should corrective or additional work become necessary by reason of such failure to obtain all necessary and available data for a proper and correct design of the Project, the Professional shall reimburse the System for the cost of such corrective or additional work to the extent that such costs exceed the costs that would have been payable had the initial design taken such data into proper consideration.

- 2.1.10 **Scheduling of Submissions.** The Professional shall schedule his work so that the System has adequate time in which to make its review and an opportunity to approve the submission in all phases. All other approvals as may be required shall be the responsibility of the Professional to obtain in due time to permit the work to continue on schedule.
- 2.1.11 **Coordination for Separate Contracts.** The Professional shall coordinate the plans and specifications for all of the separate prime construction contracts as required by the System to guard against omissions, overlaps or duplications of any items of work or materials on the Project.
- 2.1.12 **CAD Drawings.** The University requires all Project Drawings, except schematic design sketches, to be prepared and provided on computer or computer aided drafting equipment (CAD). The red-lined as-built drawings provided by the Contractors shall be added to Record Drawings by the design Professional and provided in CAD format. Copies of the bid documents and Record (as-built) Drawings shall be provided to the University in hard copy, DWG and PDF format.

## **2.2 BASIC SERVICES: SCOPE OF WORK**

### **2.2.1 Schematic Design Phase**

- 2.2.1.1 Scope. The Professional shall consult with the System to ascertain fully the requirements of the scope for the project Allocation. Based upon this consultation and any feasibility study, the Professional shall develop the program and alternatives, if any, and prepare and submit for approval sketches consisting of schematic design studies and other documents based on the Scope and the developed program.
- 2.2.1.2 Cost Estimate. The Professional shall prepare a Schematic Cost Estimate with a detailed breakdown of the estimated construction costs projected to the estimated bid receipt date and its relationship to the Allocation. Such costs shall be based on current area, volume and other unit costs.
- 2.2.1.3 Cost Allocation. If the Schematic Design Phase Cost Estimate is not within the Allocation, the System, at its sole discretion, may choose one of the options outlined in Exhibit A.

### **2.2.2 Preliminary Design Phase**

- 2.2.1.1 50% Submission. The Preliminary Design Development Documents shall be prepared by the Professional, and shall consist of such drawings, outline specifications and other documents as may be necessary to fix and describe the approximate size and character of the entire Project, its exact site location, the nature of the work to be performed by trade disciplines, and such other essentials as may be appropriate or as may be required by the System. The System requires a submission of progress drawings at the 50% completion stage of this design phase.
- 2.2.1.2 Cost Estimate and Schedule. With the submission of the completed Preliminary Design Phase Documents, the Professional shall submit a Cost Estimate with a detailed cost breakdown to include material cost, labor man-hours, quantity takeoff and unit prices, of the estimated construction cost computed at present prices projected to the estimated bid receipt date, along with a Construction Time Frame Schedule indicating the estimated length of time to complete the work, taking into account local weather patterns, bidding market, etc., and a justification of the factors used for such projections.
- 2.2.1.3 Cost Allocation. If the Preliminary Design Phase Cost Estimate is not within the Allocation, the System, at its sole discretion, may choose one of the options outlined in Exhibit A.

### 2.2.3 **Pre-Final Design Phase**

- 2.2.3.1 Pre-Final Design Submittal. Upon receipt of the System's written approval of the Preliminary Design Phase Documents, Cost Estimate, and the Construction Time Frame Schedule, the Professional shall develop the Drawings, Plans, and Specifications on or before the time period provided in the Design Time Schedule, and shall submit the same for Pre-Final Design review and approval to the System.
- 2.2.3.2 Cost Estimate. With the submission of the Pre-Final Design Phase Documents, the Professional shall submit a Cost Estimate with a detailed breakdown to include (1) material cost, (2) labor man-hours, (3) quantity takeoff, and (4) appropriate unit prices for each anticipated separate prime construction contract. The estimated construction cost shall be computed at present prices projected to the estimated bid receipt date. The Professional shall advise the System of any changes necessitated by current market conditions and a justification for any change. The Pre-Final Design Phase Cost Estimate, if within the Allocation and approved by the System, shall become the agreed basis upon which the design is completed. An estimated payout schedule shall also be submitted that shows the Professional's best estimated payouts of the project cost based on his best estimate of the construction period.
- 2.2.3.3 Cost Allocation. If the Pre-Final Design Phase Cost Estimate is not within the Allocation, the System, at its sole discretion, may choose one of the options outlined in Exhibit A.
- 2.2.3.4 Operating and Maintenance Programs. The Professional shall be familiar with the System's normal operating and maintenance programs. With both the Pre-Final Design and Final Design Phase submissions, the Professional shall submit a report on any special operating or maintenance procedures required by the design. If the design does not require departures from the System's normal procedures, the Professional shall submit a signed statement to that effect to the System with his Pre-Final Design Phase submission.

### 2.2.4 **Final Design Phase**

- 2.2.4.1 Final Design Submittal. Upon receipt of written approval of his Pre-Final Design Phase submission from the System, the Professional shall make all corrections called for by such approval or required in the Professional's judgment, and prepare a Final Design Phase submission, which shall include tracings, specifications, and all documents which are required by the Engineering/Architectural Instructions to the System for final approval.
- 2.2.4.1 Alternative Base Bids. In order to provide further assurance that bids will be within the Allocation, the Professional shall include one or more alternative base bids in the bidding documents for each contract as part of his Basic Services. This requirement is in addition to any deductive base bids as required in Exhibit A.

### 2.2.5 **Bidding Phase**

- 2.2.5.1 Preparation. The System shall provide to the Professional all necessary instructions required to proceed with the Bidding Phase. The Professional will prepare the bidding documents and comply with the procedures in Exhibit B.
- 2.2.5.1 Pre-Bid Conferences. The Professional, together with his consultants, shall, as part of his Basic Services, attend all pre-bid conferences scheduled by the System.
- 2.2.5.1 Evaluation of Bids. The Professional shall evaluate the reasonableness of the bids and their compliance with the requirements of the bidding documents. The Professional shall render a confidential report to the System on all information (either known by the Professional or ascertained by reasonable inquiry of the Professional), bearing on the responsibility and experience of the two lowest bidders on each contract. The report shall be submitted within fifteen (15) calendar days after the bid opening.
- 2.2.5.1 Redesign Requirements Upon Receipt of Bids:
- Compensation for Redesign - Bids Exceed Allocation with Notification. The Professional shall be compensated for any necessary redesign required by the System if the following apply:

- The Professional had notified the System of the inadequacy of the Allocation in accordance with Paragraph 2.1.101.
- The aggregate of low bids exceeds the Allocation plus five percent (5%)
- The aggregate bid total cannot be brought within the Allocation plus five percent (5%) by the acceptance of one of the deductive base bids
- No Compensation for Redesign - Bids Exceed Allocation without Notification. The Professional shall, at the direction of and without any expense to the System, redesign and re-bid the Project until the aggregate of low bids is within the Allocation plus five percent (5%) if the following apply:
  - The Pre-Final Cost Estimate was with the Allocation
  - The aggregate of low bids exceeds the Allocation plus five percent (5%)
  - The aggregate bid total cannot be brought within the Allocation plus five percent (5%) by the acceptance of one of the deductive base bids
- No Compensation for Redesign - Bids 10% Below Allocation. The Professional shall, at the direction of and without any expense to the System, redesign and re-bid the Project until the aggregate of low bids is within the Allocation plus five percent (5%).
  - the Pre-Final Cost Estimate was within the Allocation
  - If the aggregate of low bids falls more than ten percent (10%) below the Allocation

Option to Award. In this case, the System may award all or some of the bid proposals submitted, and the Professional shall, at the direction of and without any expense to the System, provide design services and develop Contract Documents sufficient to allow the System to bid additional work to the extent permitted by the Allocation minus the awarded contracts.

## 2.2.6 Construction Phase

2.2.6.1 Time Period. The Construction Phase will commence with the Notice to Proceed to the first Prime Contractor, and will terminate upon acceptance by the System of the Professional's recommendation for final payment on the last prime contract to be completed.

2.2.6.2 Professional of Record. The Professional will be, in the first instance, the interpreter of the requirements of the Contract Documents and the initial evaluator of the contractor's performance thereunder. The Professional will after review and approval by the System, and within ten (10) days after receipt of a written request, render in writing such interpretation or evaluation which shall be consistent with the Contract Documents.

2.2.6.3 Administration of the Construction Contracts. The Professional shall generally review the performance of the work in accordance with the Drawings and Specifications for the project. Deviations from the specifications will be reported to the System project manager. The Professional and his authorized representatives shall have full access to the work at all times.

2.2.6.4 Site Visits to the Project and Reports.

- Professional's Visits. The Professional, or an authorized and qualified representative, shall (1) visit the site periodically as required by the System during periods of active construction, (2) review the progress of the work, and (3) take such actions as are necessary or appropriate to achieve the requirements of the contract drawings and specifications in the work of the construction contractors, including advising the System as to particular matters to watch and guard against.
- Consultant's Visits. The Professional's Consultants shall visit the site periodically as required during their respective phases of the work, at such intervals as may reasonably be deemed necessary by the System and the Professional, to review their respective phases of the work in order to achieve the requirements of the contract drawings and specifications.
- Conferences. The Professional shall be required to attend any and all project site conferences that may be necessary to clarify the Contract Documents, the requirements of which shall be at the determination of the System.



- Reports of Visits. The Professional shall, within ten (10) days of each site visit, make written reports to the System relative to the progress of the work. The various consultants shall also report their respective findings on their respective visits to the site to the Professional, who, in turn, shall include such information in his progress reports to the System.
  - Construction. The Professional shall not be responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the work.
- 2.2.6.5 Rejection or Stoppage of Work. The Professional shall recommend to the System rejection or stoppage of work which does not conform to the Contract Documents, in writing, within 24 hours of the event, together with the reasons for such recommendation. If, in the opinion of the Professional, immediate action is required to either protect the work or to avoid future additional costs to the System, the Professional shall immediately reject the work by verbally notifying the responsible contractor of the Professional's intention to recommend rejection of the work.
- 2.2.6.6 Approval of Payments to Contractors. The Professional shall review and approve the detailed Schedule of Values submitted by all contractors.
- Review Time. Based on the Professional's visits to the site and the contractor's applications for payment, the Professional will approve or disapprove all applications for payment within seven (7) working days from receipt of the contractor's application for payment. If the Professional disapproves the contractor's application for payment, the Professional will forward his reasons for the disapproval in writing to the System.
- 2.2.6.7 Estimated Expenditures. The Professional shall, upon request of the System, furnish updates of the Professional's Estimated Payout Schedule, previously provided at the Pre-Final Design Phase, for the time period from the date of the request to the construction contract completion date. The Professional would then compare their updated Payout Schedule to the Contractor's Projected Payment Drawdown Schedule for the same time period, and advise the System whether or not the remaining expenditures can realistically be accomplished in the remaining time period.
- 2.2.6.8 Change Orders.
- Submittal, Approval, and Execution. The Professional shall prepare all necessary change orders to the construction contracts and submit them to the System Project Manager for review and approval. After approval by the System, the Professional shall place the Change Order in effect.
  - Category. The Professional shall categorize a Change Order as either (1) a System directed change, (2) an unknown condition, or (3) a Professional error and/or omission. The Professional shall substantiate the reasons for the categorization.
  - Submittal - Cost Estimate and Background. A Change Order Submittal shall include (1) a detailed Cost Estimate prepared by the Professional and/or the affected Consultant, (2) a full explanation of the background of the Change Order, (3) an explanation of the category assigned to the Change Order, and (4) any other information necessary to support the change (sketches, specifications, etc.)
  - Submittal Time and Delays. Change Orders shall be prepared and submitted (1) not more than 15 days, or as otherwise mutually agreed, after notification to the System or the Professional that a Change Order is required or desired, (2) not delaying the work, and (3) minimizing delay, if delay has already occurred.
  - Change Order Summary. Upon project completion of the project, the Professional shall submit a Change Order Summary that tabulates the Change Orders in the above-mentioned categories.

- Changes Due To The Professional's Failure. If increases in the project cost are caused by the Professional's failure, such as (1) the Professional's design errors and omissions, or (2) the Professional's failure to produce proper and coordinated plans, specifications, or drawings in accordance with accepted standards and procedure, then the Professional shall be liable to the System for the difference between the amount of the increased costs or compensation, and what the System would have incurred had the design been proper. All claims and disputes regarding the Professional's liability under this paragraph shall be referred to the System's Project Manager and all requests by the Professional for a Pre-Claim Conference regarding such liability shall be made in writing to the State System of Higher Education.

#### 2.2.6.9 Shop Drawings and Submittals.

- Review and Approval. The Professional shall review, approve, and process shop drawings and other submittals by the contractor for compliance with the Contract Documents and for conformity to and harmony with the design concept of the project. The Professional shall respond unequivocally and affirmatively in approving or rejecting the tendered shop drawings and submittals. The System maintains a right of review of all submittals.
- Review Time. The Professional agrees that time is of the essence of this provision and shall return the approved shop drawings or detailed notation for resubmission, if required, within fifteen (15) days after receipt from the contractor. The Professional shall act on any re-submissions within fifteen (15) calendar days of his receipt thereof.
- Shop Drawing Log. A detailed log shall be maintained by the Professional as to time of receipt of the shop drawings and time of return with adequate notes as to their disposition.
- Delay of Approval. Upon any failure to abide by the time provision of this section, or such extension thereof as may be granted in writing, the compensation due the Professional shall be reduced by the sum of between \$10 and \$50, depending on the complexity and/or size of the Project, for each and every working day including Saturdays, until the proper disposition of shop drawings is made. The System, however, in its discretion, may extend the date for the return of special shop drawings for which the Professional has no control, or which several shop drawing submittals must be coordinated, and which, in fact, delays the required action on the shop drawings. The reduction in the compensation shall not be the System's sole remedy for damages caused by the delay of the shop drawing approval.
- Shop Drawing Submittal Schedule. Each prime contractor is required to submit to the Professional a shop drawing submittal schedule on or before the first regular job conference. The Professional shall review and check the shop drawing submittal schedule within fifteen (15) calendar days of receipt from the contractor.

2.2.6.10 Record Drawings ("As-Built" Tracings). Upon completion of the project, the Professional shall revise the contract tracings ("Mylar"-type) reflecting all changes recorded during the course of construction and shall deliver one (1) set of the tracings of each contract to the System. Corrective information shall be obtained from the files of the contractors and project offices of the System. When completed, the tracings shall reflect only the project completed. The tracings shall be identified as Record Drawings ("As-Built" tracings) and shall be delivered to the System and become the property of the System.

2.2.6.11 Life Cycle Maintenance Profile. The Professional shall prepare a life cycle maintenance profile for all projects for new construction and/or renovation of existing facilities. The profile shall include the estimated time and cost for replacement of the major components, equipment, and support systems used in construction of the project. The profile shall also show the minimum annual dollar amounts that should be reserved without inflation to maintain, repair and renovate the facility when due. The System shall provide the forms for the Professional to utilize. The Professional shall also prepare a Preventive Maintenance Plan for all equipment incorporated in the project, and an estimate of the operating costs to use the building for its intended purpose.

#### 2.2.6.12 Substantial Completion.

- Final Inspection. For all construction contracts containing a provision for retainage, the Professional shall make a final inspection within 30 days receipt of a request by the contractor for final inspection and application for final payment. The Professional, together with the prime construction contractor and the System project manager, shall determine whether or not each prime contractor has complied with the requirements of Section 01700 Project Closeout, and will either proceed with the inspection of the project, or advise the contractor of the requirements that must be met before the project can be considered ready for substantial completion inspection.
- Certificate and Punch List. Upon inspection for substantial completion, the Professional will either prepare the Certificate for Substantial Completion or advise the contractor of the work items that must be completed before the certificate will be issued. The Professional shall participate in all inspections of the project necessary to accomplish this purpose. When the work is substantially complete, the Professional shall issue the Certificate of Substantial Completion. Attached to the Certificate shall be the Punch List of Uncompleted Work Items listing in detail each uncompleted work item and a reasonable cost of completion thereof.
- Record Documents and O&M Manual. Prior to conducting the inspection for substantial completion, the Professional shall review the Record Documents submittal from the contractors for compliance with the requirements of Section 01700 Project Closeout, and check the content of the Operating and Maintenance Instructions Manuals to ensure that all the appropriate materials, products, equipment and systems that encompass the project are included. The Professional shall provide written indication of his evaluation of the adequacy of the data provided, and provide to the contractor a list of deficiencies for corrections. As part of the punch list for the substantial completion inspection, the Professional shall request resubmission of corrected Record Documents from the contractor until adequate data is provided.

2.2.6.13 Final Completion. The Professional shall, together with the prime construction contractors and the System Project Manager, determine whether or not each prime construction contractor has complied with the Section 01700 Project Closeout requirements for Final Completion. The Professional shall participate in all inspections of the project necessary to inspect the Punch List of Uncompleted Work Items, and to determine whether or not the Project has been completed to the satisfaction of the Professional and the System. The Professional shall advise the Contractor of work items that must be completed or corrected, or obligations that must be fulfilled, before the project can be considered completed and accepted by the System.

- Certificate of Final Completion. Upon determining the project is completed, the Professional shall prepare and issue the Certificate of Final Completion.

2.2.6.14 Warranty Inspection. The Professional and their Consultants are required to conduct an inspection of the Project, together with the System Project Manager, 10 months after the issuance of the Certificate of Substantial Completion for each construction contract. The Professional shall prepare and provide to the System a punch list of scope of work items that are required to be replaced or otherwise repaired under the terms of the warranty provisions of the contractor's agreement.

- Punch List Inspections. The Professional and their Consultants shall participate in all inspections of the punch list repair or replacement work, together with the System Project Manager and the affected contractors until acceptable to the Professional and the System. The Professional, upon finding the remedial work satisfactory and acceptable, shall so indicate in writing to the System project manager.

### 2.3 ADDITIONAL SERVICES

Unless incorporated as part of the Special Conditions to the Agreement (Rider D), the Additional Services described in Exhibit C are NOT covered by the compensation for Basic Services. If requested in writing by the System and performed by the Professional, such Additional Services shall be the subject for additional compensation, pursuant to a negotiated Fiscal Adjustment to the Standard Form of Agreement for Professional Design Services.

**ARTICLE 3**  
**THE SYSTEM'S RESPONSIBILITIES AND DUTIES**

**3.1 PROJECT SCOPE AND ALLOCATION**

The System shall provide the Professional with the Project Scope and all available information as to the requirements of the project, including the amount of the Allocation. If the information furnished is not sufficient for the initiation of design development, the Professional shall immediately notify the System. The Professional shall rely on information provided by the System.

**3.2 PLAT OR SURVEY AND SURVEYOR'S REPORT**

The System will furnish to the Professional, when and to the extent required by the project,

- (1) a plat or survey of the site and sufficient adjacent lands, certified by a qualified licensed surveyor,
- (2) a report of survey, giving, as applicable, grades and lines of streets, encroachments, boundaries and contours of the site; location, dimensions and other complete data as to the exterior of existing buildings, other improvements and trees; and

- (3) full information concerning all services and all known utility lines crossing the site;

all of which information must be included by the Professional in the contract drawings.

**3.3 INTERPRETATION OF INSTRUCTIONS**

The System shall be the sole interpreter of any printed instructions, including the Engineering/Architectural Instructions furnished the Professional, and shall have the right to require conformance with same at all times during the development of the Project.

**3.4 SYSTEM TO ACT PROMPTLY**

The System shall act with reasonable promptness upon all submissions, and any failure of the System to do so act shall result in an extension of time to the Professional under the current Design Time Schedule equal to the number of days of the delay. If the Professional and the System cannot agree upon the extension to be granted, the Office of the Chancellor shall decide the matter.

**3.5 EFFECT OF SYSTEM'S FAILURE TO DISAPPROVE DESIGN WORK**

Any failure of the System to disapprove or reject design work submitted by the Professional shall not constitute such an acceptance of the work as to relieve the Professional of his full responsibility to the System for the proper and Professional performance of all design work on the project to the satisfaction of the System.

## ARTICLE 4

### THE PROFESSIONAL'S COMPENSATION AND PAYMENT

#### **4.1 FAIR AND REASONABLE FEE**

- 4.1.1 **Negotiated Fee.** The System shall negotiate a fair and reasonable fee for compensation of the work performed under the provision of this contract. The System will take into account the estimated Project value, the Project scope, and the complexity and the nature of the services to be performed.
- 4.1.2 **Payment.** The Professional's compensation and payment for design services for construction projects will normally be after completion of the portions of the Professional's design work, as scheduled in Exhibit D - Basic Services: Compensation and Payment Schedule.
- 4.1.2 **Contract Award Amount.** The Professional's compensation and payment shall not be adjusted based on the contract award amount.

#### **4.2 PROJECT PHASES**

At the Project orientation meeting, or during the several design phases, the System, in its sole discretion, shall determine whether or not the Project will be designed and the related construction contracts bid and/or constructed in one or more than one phase. Compensation for phasing of the design work and/or administration during the phased construction periods will be determined by negotiations that reflect a fair and reasonable amount for each phase, only in the event that phasing of the project was not part of the original concept of the Project.

#### **4.3 TIME FRAME OF CONSTRUCTION AND ADDITIONAL COMPENSATION**

- 4.3.1 **Time Frame.** Together with the System, the Professional shall determine the estimated time frame of construction and accordingly record this time in Rider B, Exhibit D - Construction Phase. If the actual construction time exceeds the estimated time frame, the Professional shall be entitled to additional compensation. The amount of compensation will be a matter of negotiation between the Professional and the System at the time of such an occurrence.
- 4.3.2 **Lump Sum Payment.** Payment for additional compensation under this paragraph shall be made in one lump sum amount. The Professional shall submit an invoice to the System following the substantial completion of the project, and upon approval of an invoice by the System, a Fiscal Adjustment shall be necessary to provide for payment. The Professional may request payment of additional compensation for six (6) month intervals if the period of delay exceeds six (6) months. Should there be more than one work phase in the project, the calculation of additional compensation due the Professional under this paragraph shall be made separately for each phase.
- 4.3.3 **Delays.** The Professional shall not be entitled to additional compensation, under this paragraph, for delays in construction that are attributable to the Professional's acts or failures to act.

#### **4.4 REIMBURSABLE EXPENSES**

Reimbursable expenses shall mean the actual expenses incurred by the Professional or the Professional's Consultants, directly or indirectly in connection with the Project, such as expenses for transportation, toll telephone calls and telegrams, reproduction of reports, drawings, specifications, bidding documents, and similar project-related items. Anticipated reimbursable expenses shall be on a Not-to-Exceed basis, will be included in the lump-sum costs for Basic Services, and will be paid only to the extent that they are incurred.

**4.5 RECORDS FOR COSTS**

The Professional's direct personnel costs, consultant costs, and all other expenses pertaining to the Project shall be kept on a generally recognized accounting basis, shall be kept with proper records, and shall be available to the System at the Professional's office for inspection and copying at mutually convenient times. Cost incurred by Professional for providing additional services shall be kept separate and apart from all other project costs.

**4.6 NOTICE TO PROCEED**

Professionals that do work prior to a Notice to Proceed being issued by the System are proceeding at their own risk.

## ARTICLE 5

### OBSERVANCE OF LAWS AND PROPRIETARY ITEMS

#### 5.1 BASIC RESPONSIBILITY

- 5.1.1 **Compliance.** The Professional shall be responsible for the compliance of the drawings and specifications with all applicable laws, regulations and ordinances of all agencies and governments, federal, state and local, insofar as they are applicable to and have jurisdiction over the project.
- 5.1.2 **Submittals and Approvals.** The Professional shall make all required submittals to and shall obtain all required approvals from the applicable agency in a timely manner so as not to cause delays to the projects.
- 5.1.3 **Fees.** The Professional shall pay all required fees and shall be reimbursed by the System.

#### 5.2 COOPERATION WITH LOCAL GOVERNMENT ENTITIES

During the design of the project, the Professional shall keep informed and comply with the requirements of all local zoning, planning, and supervisory governing bodies. Should these requirements substantially increase the cost of the Project, or should any required approvals be withheld by the local governing bodies, the Professional shall immediately notify the System.

#### 5.3 PROPRIETARY ITEMS, COPYRIGHTS, PATENTS

- 5.3.1 **Use of Items.** The Professional shall not include in the design of the project any equipment, material or mode of construction which is proprietary or which contains a copyright or patent right relating to designs, plans, drawings or specifications, unless the equipment, material or mode of construction is different and considered superior in quality and performance, and is not done primarily for the purpose of preventing or restricting competitive bidding.
- 5.3.2 **List of Items, Justification, and Approval.** In all cases, the Professional shall provide a list of such recommended proprietary, copyrighted or patented items to the System during the design phases, including the justification for their use. The Professional must then receive the written approval from the System to include any such equipment, material or modes of construction as proprietary items prior to including them as such in the bidding Contract Documents.

**ARTICLE 6**  
**INSURANCE**

**6.1 PROFESSIONAL LIABILITY INSURANCE**

- 6.1.1 **Secure and Maintain.** The Professional shall secure and maintain, at his sole cost and expense, Professional liability insurance to protect against loss resulting from design errors and omissions, failure to coordinate properly the drawings and specifications of the project, and failure to properly execute the construction administration duties for the project.
- 6.1.2 **Minimum Coverage.** Unless otherwise specifically provided in the Agreement, the Professional shall be required to secure and maintain Professional liability insurance with a minimum coverage of \$50,000, or the total of the Professional's fee, based on current Allocations, under all the contracts with the System as of the date of this Agreement, whichever is greater.
- 6.1.3 **Joint Ventures.** If the Professional is a Joint Venture, one Professional liability insurance policy covering the joint venture may be furnished, or two separate policies covering the individual joint ventures may be furnished. If two separate policies covering the individual joint ventures are furnished, each policy must provide the minimum coverage as specified herein. In addition, the certificates of insurance, in the case of two separate policies, must include statements that the insurance covers joint venture projects.
- 6.1.4 **Time Period.** The Professional is required to secure and maintain Professional liability insurance in accordance with this paragraph, up to and including one year after the date of the last final inspection of the construction contracts under the project.

**6.2 GENERAL LIABILITY INSURANCE**

- 6.2.1 **Secure and Maintain.** The Professional shall secure and maintain, at his sole cost and expense, adequate general liability insurance to protect the System and its employees against claims arising out of the Professional's services during the design, construction, and warranty period of the project, for damages in law or equity for property damage and personal injury, including wrongful death.
- 6.2.2 **Additional Insured.** The System shall be named as an Additional Insured in the Policy and an Additional Insured Endorsement shall be provided along with the Certificates of Insurance. Upon the System's request, the Professional shall submit a certified copy of the entire policy to the System. The limits of coverage as deemed adequate by the Professional shall be acceptable by the System unless manifestly unreasonable.

**6.3 CERTIFICATE OF INSURANCE**

- 6.3.1 **Deductible, Coverage, and Exclusions.** The Professional shall furnish to the System annually, unless otherwise requested during the active terms of this Agreement, a Certificate from an Insurance Carrier authorized to do business in Pennsylvania indicating: (1) the existence of the insurance required under this Article, (2) the amount of the deductible, (3) the amount of coverage of such insurance, (4) the list of exclusions for all insurance coverage, including errors and omissions insurance. All exclusions to the policies shall be provided on the Certificate of Insurance, or attached to it as a list of exclusions. Such exclusions must be acceptable to and agreed upon by the System. If no such listing is provided, it will be understood by the System that there are no exclusions to the policy.
- 6.3.2 **30 Day Notice.** The Certificates of Insurance shall contain a provision that "coverage afforded under the policies will not be canceled, allowed to expire, or in any way changed, including alterations to the conditions of the policy, until at least thirty (30) days written notice has been given, by registered mail, to the System".

**6.4 FAILURE TO COMPLY WITH INSURANCE REQUIREMENTS**

During any period in which the Professional is not in compliance with the terms of this Article, no compensation shall be paid by the System to the Professional.



## ARTICLE 7

### SUSPENSION, TERMINATION, AND REACTIVATION OF WORK

#### 7.1 SUSPENSION OF WORK

- 7.1.1 **System's Option to Suspend.** The System may, at any time, direct the Professional to suspend all work on the Project, or any part thereof, pending receipt of further notice from the System.
- 7.1.2 **Phasing Out The Work.** In all such cases the System and the Professional shall agree upon an appropriate phasing out of the work, or any part thereof, in such a manner that the work may be resumed with a minimum of added costs to the System, but in no event shall the work be continued beyond the completion of the design phase in which it then is.
- 7.1.3 **Compensation.** The Professional shall be compensated as if the Agreement has been terminated as at the completion of the agreed balance of work. If work is suspended during The Construction Phase, compensation shall be paid for all Professional services provided to the date of suspension

#### 7.2 TERMINATION OF AGREEMENT

- 7.2.1 **Termination for Convenience.** The System shall have the right at any time and for any reason, to terminate the Agreement by written notice, which termination shall be effective as provided in said notice. The Professional shall comply with all reasonable instructions of the System then or subsequently given, relating to such termination, including but not limited to: (1) instructions concerning delivery of drawings, sketches, and other architectural/engineering data to the System, (2) discontinuance of the work on outstanding contracts, and (3) furnishing to the System information concerning all action to be taken respecting outstanding agreements with consultants, contracts, awards, orders or other matters.
- 7.2.2 **Termination Upon Disability of Professional.** In the event of death, or mental or physical disability of Professional, or his ability to complete the contract for any other reason over which Professional has no control including military mobilization, or dissolution of the Professional firm, the System shall have the right to terminate the Agreement and to select and employ a new Professional to complete the work.
- 7.2.3 **Termination for Default of Professional.** The System may terminate this Agreement for any material default of the Professional, including default in making submissions or taking action within the time limited specified in the Agreement, upon written notice to the Professional and Professional's failure to cure the default within a period of not less than ten (10) days as specified in such notice.
- 7.2.4 **Adjustment of Compensation Upon Termination.** Upon termination of the Agreement, as hereinbefore provided, the compensation of the Professional shall be adjusted in accordance with the following.
- **Percentage of Fee Due.** If the Agreement shall be terminated as of the end of any of the five stages of the Professional's work, for any reason except the material default by the Professional, all obligations of the System to the Professional shall be discharged by the payment to the Professional of that percentage of the fee due under Article 4 for the completion of the work through that phase, plus any reimbursable costs properly approved under the Agreement or otherwise authorized and properly incurred under any provision of these General Conditions.

- **Monthly Payment Due.** If the Agreement shall be terminated at any time during the Construction Phase, for any reason except the material default by the Professional, the obligation of the System to the Professional shall be discharged by the payment of the monthly payment due for the month in which such termination occurs, plus any other unpaid items due and owing for work performed prior to the terminate date.
- **Completed Work.** If the Agreement shall be terminated for any reason except the material default by the Professional, at any time during the course of any Design Phase, all obligations of the System to the Professional shall be discharged by the payment to the Professional of all sums due and unpaid in respect of all completed design phases, plus an appropriate portion of the payment due for the phase in which the Agreement is terminated.
- **Death or Incapacity.** If the Agreement is terminated by reason of death or incapacity of the Professional, all payments due and owing shall be made to his personal representative.
- **Liquidation or Dissolution.** If the Agreement is terminated by reason of the liquidation of a partnership or the dissolution of a corporation, payment shall be made to the liquidating partner or trustees as the case may be.
- **Engaging Another Professional.** If the Agreement is terminated by reason of a material default of the Professional, continuing for the period specified in the written notice of such default and demand for cure, no further payments shall be made to the Professional until the System shall have engaged another Professional to complete the project. If another Professional is engaged, the cost to the System of the compensation and expenses of such other Professional shall be deducted from the remainder of the compensation otherwise payable to the Professional for completion of the work under the Agreement. Any shortage shall be recoverable from the Professional.

### **7.3 PROVISION FOR SPECIAL CASES**

- 7.3.1 **Costs of Specifically Leased Space and Holding/Terminating Certain Employees.** Upon any suspension of work or termination of the Agreement, and if the Special Conditions of the Agreement provide reference to this paragraph, the System and the Professional shall agree upon the amount to be reimbursed to the Professional to cover the costs, incurred during any period of suspension or incurred in effecting a termination, (1) of any additional space specifically leased for the project, and (2) of holding or terminating the employment of any group of employees specially hired for the project.
- 7.3.2 **Prior Notice.** The Professional shall have given the System notice prior to leasing such space or hiring such personnel as a prerequisite to receiving additional compensation hereunder. The Professional shall use his best efforts to minimize all claims for additional compensation hereunder.

### **7.4 REACTIVATION OF PROJECT**

- 7.4.1 **Extra Start-Up Costs.** Where a Project has been suspended or terminated for a longer time than ten (10) months and is subsequently reactivated, the System and the Professional shall agree, prior to the beginning of the reactivation work, upon a lump sum or other basis of reimbursement to the Professional, of his extra start up costs as result of the work having been suspended or terminated.
- 7.4.2 **Claims Provisions.** If agreement as to the amount of reimbursement is not reached, the Professional shall proceed with the project and seek adjustment under the claims provisions of the contract.
- 7.4.3 **Termination.** If the Professional does not proceed within 30 days from notice to proceed, the System may terminate the Agreement for material default.

**ARTICLE 8**  
**PROVISIONS REQUIRED BY**  
**PENNSYLVANIA LAW OR FEDERAL LAW TO BE INSERTED**

**8.1 PROVISIONS DEEMED INSERTED**

Each and every provision required to be inserted in Professional Agreements by the law of Pennsylvania, or the lawful regulations of any agency of the Commonwealth, and, if the Project involves the use of federal funds, by any law of the United States of America or the lawful regulations of any agency thereof applicable to the Agreement, shall be deemed to be inserted herein, and the Agreement shall be read, interpreted and enforced as if such provisions were set forth therein in full.

**8.2 PHYSICAL AMENDMENT OF AGREEMENT**

If desired by the System by any State or Federal Officer having power to require the inclusion of provisions and terms in Professional Agreements, the Agreement shall be forthwith physically amended to include such provisions over the signature of the Professional.

**ARTICLE 9**  
**DEFINITIONS**

**9.1 DEFINITIONS**

As used in these General Conditions and Special Conditions, and in the Agreement, the following definitions shall be as described herein, unless the context clearly dictates otherwise.

- 9.1.1 **Agreed Estimated Construction Cost** shall mean the most recent estimate approved as such, or, in the absence of any other approved Agreed Estimated Construction Cost, the amount approved by the System as the Allocation.
- 9.1.2 **Agreement** means the Agreement for Professional Design Services, of which these General Conditions are made a part.
- 9.1.3 **Cost Allocation or Allocation** shall mean the construction costs or base amount set forth by the System or amended as provided for in existing procedures established by the System, and meant to be the same sum as the aggregate of low bids received on the Bid Date.
- 9.1.4 **Bid Date** means the date upon which bids are received for construction contracts for the Project.
- 9.1.5 **Contract Documents** refers to the System's standard construction contract provisions, which consist of the construction agreement, notice to bidders, the instructions to bidders, the bid proposal, the contract bond, the conditions of the contract (General Provisions, General and Special Requirements, and Additional Contract Conditions), the drawings and specifications of all contracts, and all bulletins and addenda issued prior to execution of the construction agreement, and all modifications thereto.
- 9.1.6 **Program Development** means the compilation of raw statistical space data, including basic functional units, approximate number of persons and special equipment for each function will be provided by the System. The Professional shall be responsible for translating the raw statistical data into organizational relationships, activities and functions to be housed within the building or buildings of this project and shall develop layouts and building plans which establish net and gross space and volume requirements for the project within the established Allocation.
- 9.1.7 **Project Scope** means the authorized and approved work to be included in the project that defines the Allocation, the property site and a description of the construction required, as outlined in Rider A of this Agreement.
- 9.1.8 **System** shall mean the State System of Higher Education, or any University which comprises the System.
- 9.1.9 **Error or Omission Change Order** means a change order required to correct a Professional's error in the Contract Documents or an omission of information, material and construction necessary to complete the project.
- 9.1.10 **The Construction Phase** is defined as commencing with the Notice To Proceed being issued to the first prime contract for the work of the Project or any part thereof, and terminating upon acceptance by the System of recommendation of final payment on the last prime contract to be completed.
- 9.1.11 **Wasted Design** is that part of an approved design which was previously approved by the System, which cannot be reused in a revised design, providing the design changes or revisions to the design were not initiated by the Professional.

STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES

R I D E R B

GENERAL CONDITIONS

***EXHIBIT A***  
***Options For Proceeding With Design***  
***When Cost Estimate Exceeds Allocation***

1. **REDESIGN**

When the Cost Estimate exceeds the Allocation, the Professional shall be responsible to adjust the entire design, at no expense to the System, to bring the Cost Estimate within the Allocation.

2. **DEDUCTIVE BASE BIDS**

When the Cost Estimate exceeds the Allocation, the Professional, with the approval of the System, may include Deductive Base Bids, at no expense to the System, to bring the Cost Estimate within the Allocation.

3. **CHANGE IN SCOPE OF WORK**

When the Cost Estimate exceeds the Allocation and the basis for the difference arises from factors which indicate the desired Program is not reasonably attainable within the current Allocation, the System may choose to adjust the Program and Scope of Work to bring the Cost Estimate within the Allocation.

The System shall instruct the Professional on how to proceed with the adjustment in the Design.

The System shall negotiate the Professional's compensation for adjusting the Design, subject to a negotiated credit for that portion of the original design that is applicable to the redesign.

4. **INCREASE COST ALLOCATION**

When the Cost Estimate exceeds the Allocation, the System, at its sole discretion, may increase the Allocation and direct the Professional to proceed with the Design. The Professional's compensation shall remain as negotiated on the original Allocation.

5. **DIRECTION TO PROCEED WITH THE DESIGN WITHOUT A CHANGE**

When the Cost Estimate or subsequent Cost Estimates exceed the Allocation, and, in the opinion of the System the estimate is considered high, the System may direct the Professional to proceed with the design without a change in Scope of Work or in the Allocation. However, should the aggregate of low bids exceed the allocation plus five percent (5%), the Professional's obligation with regard to redesigning and re-bidding shall not apply. The Professional's compensation shall remain as negotiated on the current Allocation.

STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES

RIDER B

GENERAL CONDITIONS

***EXHIBIT B***

***Preparation And Reproduction Of Bidding Documents***

**1. DRAWINGS AND SPECIFICATIONS**

The Professional shall, as part of his Basic Services, assemble complete sets of Drawings and Specifications for each Construction Contract included in the Project.

**2. ADVERTISEMENT AND RELEASE OF CONTRACT DOCUMENTS**

The System shall arrange for the necessary publication by advertisement of the notice to bidders, and shall notify the Professional when the advertisements are released for publication. Until so notified, the Professional shall not release contract documents to any proposed bidder.

**3. ISSUANCE OF BIDDING DOCUMENTS**

Upon receipt of a bidder's request and the specified payment, the Professional shall issue complete bidding documents to all prospective bidders. The Professional will, with the approval of the System, set an amount for which prospective bidders may purchase the bidding documents as a non-refundable fee. This amount may not exceed a reasonable estimate of the costs to be incurred by the Professional including reproduction costs and reasonable delivery costs. The Professional shall issue Drawings and Specifications to designated Bidders' Services.

**4. BIDDING DOCUMENTS**

The bidding documents supplied to prospective bidders by the Professional shall include:

- (1) The Drawings for each Construction Contract included in the Project
- (2) A complete set of Specifications for each Construction Contract included in the Project
- (3) Prevailing Wage Determination
- (4) Notice to Bidders
- (5) Special Requirements
- (6) Bid Proposal Forms and Bid Envelope for Construction Contract requested by Bidder
- (7) Bid Bond Forms
- (8) All Bulletins and Addenda issued to the date of request

**5. BULLETINS AND/OR ADDENDA**

All Bulletins and/or Addenda issued after date of mailing of documents shall be forwarded to the bidder and bidders' services by the Professional.

**6. SYSTEMS'S PACKAGE AND SUCCESSFUL BIDDERS' PACKAGES**

The Professional shall furnish the following as detailed in the General Conditions to the Construction Contract

- To the System five (5) complete sets of the Bidding Documents
- To each successful low bidder five (5) complete sets of Drawings and Specifications

STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES

RIDER B

GENERAL CONDITIONS

***EXHIBIT C***  
***Additional Services***

**ADDITIONAL SERVICES.** Unless incorporated as part of the Rider D - Special Conditions to the Agreement, the following Additional Services described in this Exhibit C are NOT covered by the Compensation for Basic Services.

1. **REVISIONS TO APPROVED DRAWINGS AND SPECIFICATIONS**

Revising previously approved drawings or specifications to accomplish changes not initiated by the Professional and not required by the terms of the Agreement, to bring costs within the allocation. In no case, however, shall revisions through the Preliminary Design Phases, other than revisions made necessary by an approved revised Project Scope, be considered as additional services.

2. **DETAILED ESTIMATES OF PROJECT COST**

Furnishing detailed estimates of construction project costs, except as specifically provided in the agreement.

3. **REPLACEMENT OF WORK DAMAGED BY FIRE OR OTHER CAUSES**

Evaluating and/or providing replacement studies of any work damaged by fire or other causes beyond the Professional's control during project accomplishment.

4. **SPECIALIZED PROFESSIONAL SERVICES**

Providing any unusual or specialized Professional services other than those required in the Agreement, by the Design Professional or a Consultant, and consistent with inherent requirements to meeting the functional needs of the Project.

5. **DEFAULT OF CONTRACTOR**

Preparing Bidding Documents and reviewing work completed and/or yet to be done upon default of the contractor(s).

**6. SPECIAL STUDIES**

Providing services related to the preparation of Environmental Assessments and/or Environmental Impact Statements, Energy Impact Statements, Analysis, Feasibility, or other Studies as may be required by Local, State, or Federal Government Agencies, providing that such services are not within the Project Scope, and are not included in the Special Conditions to the Agreement.

**7. PROJECT REPRESENTATION**

- a. If more extensive representation at the site is required by the System than is provided for in the Agreement, the Professional shall provide one or more Full Time Project Representative(s). Such Full Time Project Representative(s) shall be selected, employed and directed by the Professional, and such selection shall be approved by the System.
- b. The Full Time Project Representative(s) shall, through continuous on-site observations, exercise good faith and due care to provide further protection to the System against defects or deficiencies in the performance of the construction contracts, but the furnishing thereof shall not relieve the Professional of the responsibilities under the Agreement.

**8. CONSTRUCTION BY STATE EMPLOYEES**

Performing more exacting administration and review of construction when construction is performed by State employees, unless the compensation specified in the Agreement was established on the basis of using such labor.

**9. CONSTRUCTION SCHEDULING**

Providing services related to Construction Phase Scheduling requested by the System.

**10. INTERIOR DESIGN SERVICES**

Providing Interior Design Services of a specialized nature, such as: space planning, interior color schedule, furnishing selections and specifications, window treatment, graphic wall design, art work selection, interior plants, and contract documents for bidding of the above.

**11. SURVEYS**

Providing, to the extent required by the project, a Plat of Survey of the site and sufficient adjacent lands, certified by a qualified licensed surveyor, and a Report of Survey, giving, as applicable, grades and lines of streets, alleys and pavements; the location of all rights of way restrictions, easements, encroachments, boundaries and contours of the site; location, dimensions and other complete data as to the exterior of existing buildings, or other improvements and trees; and full information concerning all services and utility lines crossing the site. Such services shall be performed in accordance with the Engineering/Architectural Instructions in effect at the time of the execution of the Agreement.

**12. CHANGE ORDERS**

Providing services arising from an approved change order that is not the result of an error or omission on the part of the Professional. When additional services are required as a result of an approved change, the Professional shall render such services at the negotiated hourly rates and unit prices.



When the System determines the design work is so extensive that negotiated compensation is required, the System shall make the determination of the reasonableness of compensation prior to the commencement of the work, unless an emergency situation exists or failure to proceed with the work shall cause delay, in which case the Professional shall maintain an accurate record of his costs.

In all cases, a Fiscal Adjustment to the Agreement is required.

**13. FIELD TESTS**

Providing sub-surface explorations, test borings, test pits, related work in accordance with Engineering/Architectural Instructions in effect at the time of the execution of the Agreement.

**14. SOILS FOUNDATION ENGINEER**

Engaging the services of a registered, qualified soils foundation engineer for furnishing necessary recommendations. Such services shall be performed in accordance with the Engineering/Architecture Instructions in effect at the time of the execution of the Agreement.

**15. LABORATORY TESTS**

Providing laboratory testing of soils, concrete or other materials and equipment in accordance with Engineering/Architectural Instructions in effect at the time of the execution of the Agreement.

**16. SUBSURFACE UTILITY ENGINEERING**

Providing the location and identification of unknown, unobservable underground facilities, utilities, tanks and other buried objects to the extent required for construction of the project. Prospecting techniques including radio frequency electromagnetic, magnetic acoustic emission sonics, terrain conductivity, ground penetrating radar and select excavation shall be used to provide a comprehensive horizontal map and give an indication of vertical position. Information obtained using this service shall be shown on the Plat of Survey of the project site.

**COMPENSATION FOR ADDITIONAL SERVICES.** The Direct Labor Rates and Overhead Costs that shall be used by the Professional and any Consultants for the term of this Agreement shall be those Hourly Rates attached to or listed in Rider D.

Compensation for Additional Services shall be addressed through one of several methods, in the following order of preference:

1. Lump Sum Agreed Upon in Advance.

For known Additional Services for which the complete scope of the Professional's services can be determined in advance, the lump sum cost thereof shall be included in this Agreement. Payment will be made upon satisfactory completion of the service.

2. Not-To-Exceed Agreed Upon in Advance.

For known Additional Services for which the complete scope of the Professional's services cannot be determined in advance, the anticipated cost thereof shall be included in this Agreement as a Not-To-Exceed amount. Payment will be made upon the satisfactory completion of services and for only those costs legitimately incurred.

3. Lump Sum in a Fiscal Adjustment.

If the need for Additional Services arises during the term of this Agreement, and the complete scope of the Professional's services can be determined in advance, the lump sum cost thereof shall be provided for in a Fiscal Adjustment to this Agreement. Payment will be made upon satisfactory completion of the service.

4. Not-To-Exceed in a Fiscal Adjustment.

If the need for Additional Services arises during the term of this Agreement, but the complete scope of the Professional's services cannot be determined in advance, the anticipated cost thereof shall be provided for in a Fiscal Adjustment to this Agreement as a Not-To-Exceed amount. Payment will be made upon the satisfactory completion of services and for only those costs legitimately incurred.

5. Claim.

In the event an agreement in advance cannot be reached, the System may direct the Professional to provide the Additional Services, in which case the Professional shall provide said services and shall keep a daily record of the cost for performing the Additional Services. After the Additional Services are completed by the Professional or are terminated by the System, the Professional may submit a claim for the cost incurred in performing the Additional Services.

- If there is an agreement that the services are Additional Services, but there is no agreement as to the cost, the System will make payment of the agreed-upon portion of the costs. The remaining portion of the costs shall be subject to the Disputes process (Article 1.18 of Rider B).
- If there is no agreement that the services are Additional Services, the System will not be required to make any payment. The non-agreement on the classification of the services shall be subject to the Disputes process (Article 1.18 of Rider B).

STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES

RIDER B

GENERAL CONDITIONS

**EXHIBIT D**  
**BASIC SERVICES COMPENSATION AND PAYMENT SCHEDULE**

**D1. PAYMENTS DURING DESIGN**

Negotiated Amount. The Professional's compensation and payments shall be based upon the negotiated amount of the contract as detailed in D2 - Schedule of Payments During Design.

Adjustments. If, at any time, the cost estimate for the projects exceeds or falls below the allocation by more than ten percent (10%), the System or the Design Professional may request equitable adjustments. Any adjustments made will be determined by the adjustments made to the scope of the work.

Summary. The Summary of the Schedule of Payments is as follows:

	<u>PAYMENT</u>
<b>SUBTOTAL: BASIC SERVICES</b>	\$ _____
<b>SUBTOTAL: REIMBURSABLE EXPENSES</b>	\$ _____
<b>TOTAL BASIC SERVICES COMPENSATION</b>	\$ _____

**D2. SCHEDULE OF PAYMENTS DURING DESIGN**

The Professional's compensation shall be payable in installments as follows, unless otherwise negotiated. As used below, the approval required is the written approval of the System that the indicated phase has been satisfactorily completed.

	<u>PAYMENT</u>
<b>A. <u>Schematic Design Phase</u></b> Upon approval by the System	\$ _____
<b>B. <u>Preliminary Design Development Phase</u></b> Upon approval by the System	\$ _____
<b>C. <u>Pre-Final Design Documents Phase</u></b> Upon submission of 50% Completed Design Documents	\$ _____
Upon approval by the System of the Pre-Final Design Documents	\$ _____
<b>D. <u>Final Design Documents Phase</u></b> Upon approval by the System of the Final Design Documents and the Final Bidding Documents	\$ _____

**E. Bid and Award of Contracts** \$ \_\_\_\_\_  
Upon Award of Contracts to Prime Contractors by the System

**F. Construction Phase**

(1) Construction Administration: \$ \_\_\_\_\_  
Payment apportioned into as many installments as there are calendar months during the Construction Period, from the Notice to Proceed to the Substantial Completion date specified in the Contract Documents.  
Number of estimated months of Construction: \_\_\_\_ months

(2) Product and Fabrication Shop Drawings. \$ \_\_\_\_\_  
Payment to be made as a percentage of the submission and subsequent review of all required Product and Fabrication Shop Drawings by all Prime Contractors.

(3) Record Drawings: \$ \_\_\_\_\_  
Payment to be made upon submission, and subsequent approval by the System.

(4) Life Cycle Maintenance Profile: \$ \_\_\_\_\_  
Payment to be made upon submission, and subsequent approval by the System.

(5) Final Completion: \$ \_\_\_\_\_  
Payment to be made upon the Professional's issuance of the Certificate of Final Completion.

**G. Warranty Inspection:** \$ \_\_\_\_\_  
Inspection of completed projects ten months after the date of Substantial Completion, issuance of the warranty punch-list work items, and re-inspection, as required, of warranty punch-list. Payment upon completion of warranty inspection.

**SUBTOTAL: BASIC SERVICES** \$ \_\_\_\_\_

**D3. REIMBURSABLE EXPENSES**

Reimbursable expenses are those listed on Form R-1-Basic Services. The total amount of the reimbursable expenses included in the agreement will be a not-to-exceed amount to be invoiced as the expenses occur. It should be understood that expenses will be reimbursed only to the extent that they are incurred.

**SUBTOTAL: REIMBURSABLE EXPENSES** \$ \_\_\_\_\_

**STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES**

**RIDER C**

**NONDISCRIMINATION / SEXUAL HARRASSMENT**

In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any subcontract, the Contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, religious creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Agreement on account of gender, race, religious creed, or color.

The Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy.

The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Contracting Officer and the Department of General Services' Bureau of Minority and Women Business Opportunities for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Contracting Officer or the Bureau of Minority and Women Business Opportunities.

The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment clause in every subcontract so that such provisions will be binding upon each subcontractor.

The System may cancel or terminate the Agreement, and all money due or to become due under the Agreement may be forfeited, for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment clause.

STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES

R I D E R D

SPECIAL CONDITIONS

*In this rider, the following items should be included.*

1. **DIRECT LABOR RATES, OVERHEAD COST, AND AN HOURLY RATES**

The Direct Labor Rates and Overhead Cost, expressed as an Hourly Rate Listing for the Professional and any Consultant's personnel, shall be attached to or listed in Rider D.

When the hourly Rate Schedule for a given employee classification is shown as a range of rates, the actual direct labor rate (and therefore billable hourly rate) of the employee doing the work shall be used when preparing any cost proposals and for invoicing for completed work, for any services provided under this agreement.

2. **ITEMS INCLUDED IN THE AGREEMENT**

The following items are hereby incorporated by referenced in Rider D and shall be made part of this Agreement as though attached hereto:

- The Request for Proposals for \_\_\_\_\_ University  
Project Number \_\_\_\_\_ Entitled \_\_\_\_\_
- The Professional's Response
- The Professional's Cost Proposal dated \_\_\_\_\_
- The Professional Fee Cost Principles

3. **SPECIAL OR SUPPLEMENTAL CONDITIONS**

The University shall include, by reference, any special or supplemental conditions that should be incorporated into the design by the Professional, such as asbestos investigation, existing drawings, soil exploration studies, previous feasibility studies, etc.

4. **ADDITIONAL SERVICES AND METHOD OF PAYMENT**

Additional Services that are going to be provided by the Professional and the Method of Payment for them should be included in Rider D. Additional services could include those listed in Rider B, Exhibit C - Additional Services, as well as others that the University deems necessary.

**TOTAL SPECIAL CONDITIONS COMPENSATION: \$ \_\_\_\_\_**

**STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES**

**RIDER E**

**STANDARDS OF PRACTICE**

**1. PERFORMANCE OF DUTIES**

The Professional agrees to exercise reasonable and ordinary care and diligence in the application of professional knowledge to accomplish the purpose for which the Professional has been retained.

The Professional represents to have the experience, skill, and knowledge to perform the responsibilities required under the contract with reasonable and ordinary care and diligence.

**2. ADEQUATE AND SUFFICIENT PLANS AND SPECIFICATIONS.**

The Professional expressly agrees that any review or approval by the System of the plans and/or specifications shall not diminish the Professional's obligation to provide plans and specifications that are adequate and sufficient to accomplish the purposes of the project.

**3. INSURANCE FOR ERRORS AND OMISSIONS**

The Professional agrees to obtain adequate insurance coverage for Errors and Omissions, and that nothing within this Rider shall exclude reasonable protection for the Professional or the System under the coverage provision afforded by the Professional's Insurance Policy.

**STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

**STANDARD FORM OF AGREEMENT  
FOR  
PROFESSIONAL DESIGN SERVICES**

**RIDER F**

**PROFESSIONAL INTEGRITY**

**1. DEFINITIONS**

- a. **Confidential Information** means information that is not public knowledge, or available to the public or request, disclosure of which would give an unfair, unethical, or illegal advantage to another desiring to contract with the State System of Higher Education.
- b. **Consent** means written permission signed by a duly authorized officer or employee of the State System of Higher Education, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal, or contractual terms, the State System of Higher Education shall be deemed to have consented by virtue of execution of this agreement.
- c. **Professional** means the individual or entity that has entered into this agreement with the State System of Higher Education, including directors, officers, partners, managers, key employees, and owners of more than a 5% interest.
- d. **Financial Interest** means:
  - (1) ownership of more than a five percent interest in any business; or
  - (2) holding a position as an officer, director, trustee, partner, employee, or the like, or holding any position of management.
- e. **Gratuity** means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind.

**2. NO ACTION IN VIOLATIONS**

The Professional shall maintain the highest standards of integrity in the performance of this agreement and shall take no action in violation of state or federal laws, regulations, or other requirements that govern contracting with the State System of Higher Education.

**3. CONFIDENTIAL INFORMATION**

The contract shall not disclose to others any confidential information gained by virtue of this agreement.

**4. BENEFITS**

The Professional shall not, in connection with this or any other agreement with the State System of Higher Education, directly or indirectly, offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendations, vote, other exercise of discretion, or violation of a known legal duty by any officer or employee of the State System of Higher Education.



5. **GRATUITIES**

The Professional shall not, in connection with this or any other agreement with the State System of Higher Education, directly or indirectly, offer, give, or agree or promise to give to anyone any gratuity for the benefit of or at the direction or request of any officer or employee of the State System of Higher Education.

6. **GRATUITIES**

Except with the consent of the State System of Higher Education, neither the Professional nor anyone in privity with him shall accept or agree to accept from, or give or agree to give to, any person, any gratuity from any person in connection with the performance of work under this agreement except as provided therein.

7. **FINANCIAL INTEREST**

Except with the consent of the State System of Higher Education, the Professional shall not have a financial interest in any other contractor, subcontractor, or supplier providing services, labor, or material on this project.

8. **NOTIFICATION OF VIOLATION**

The Professional, upon being informed that any violation of these provisions has occurred or may occur, shall immediately notify the State System of Higher Education in writing.

9. **CERTIFICATION OF NON-VIOLATION**

The Professional, by execution of this agreement and by the submission of any bills or invoices for payment pursuant thereto, certifies and represents that he has not violated any of these provisions.

10. **AVAILABILITY OF BUSINESS AND FINANCIAL RECORDS**

The Professional shall, upon request of the Office of the Chancellor of the State System of Higher Education, reasonably and promptly make available to that office and its representatives, for inspection and copying, all business and financial records of the Professional of, concerning, and referring to this agreement with the State System of Higher Education or which are otherwise relevant to the enforcement of these provisions.

11. **RIGHTS AND REMEDIES FOR VIOLATIONS**

For violation of any of the above provisions, the State System of Higher Education may

- (1) terminate this and any other agreement with the Professional,
- (2) claim liquidated damages in an amount equal to the value of anything received in breach of these provisions,
- (3) claim damages for all expenses incurred in obtaining another Professional to complete performance hereunder, and
- (4) debar and suspend the Professional from doing business with the State System of Higher Education.

These rights and remedies are cumulative, and the use or nonuse of any one shall not preclude the use of all or any other.

These rights and remedies are in addition to those the State System of Higher Education may have under law, statute, regulation, or otherwise.

STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA

APPLICATION FOR SPECIFIC PROJECT  
PASSHE FORM 150 ASP

*(This form is a modified version of DGS Form 150 – ASP, by and for the use of the State System of Higher Education)*

<b>RFP/PROJECT NUMBER</b>	<b>RFP/PROJECT TITLE</b>
<b>UNIVERSITY AND PROJECT LOCATION</b>	

<b>IF SUBMITTED BY SINGLE FIRM</b>
<b>PRIME FIRM NAME</b>
ADDRESS OF OFFICE TO PERFORM WORK

<b>IF SUBMITTED BY JOINT VENTURE</b> (Complete Items 1 through 6 of this form for each firm in the Joint Venture)	
<b>JOINT VENTURE NAME</b>	
JOINT VENTURE ADDRESS	
NAME/TITLE OF PRINCIPAL TO CONTACT	TELEPHONE NUMBER

**APPLICATION FOR SPECIFIC PROJECT  
PASSHE FORM 150 ASP**

**TABLE OF CONTENTS**

BLOCK 1.	APPLICANT NAME
BLOCK 2.	PARENT COMPANY NAME
BLOCK 3.	TYPE OF FIRM
BLOCK 4.	DISADVANTAGED BUSINESS STATUS
BLOCK 5.	LEGAL STRUCTURE OF FIRM
BLOCK 6.	PERSONNEL BY DISCIPLINE
BLOCK 7.	JOINT VENTURE FIRMS AND RESPONSIBILITIES
BLOCK 8.	SUBCONTRACTED FIRMS
BLOCK 9.	KEY PERSONNEL in PRIME/JOINT VENTURE
BLOCK 10.	KEY PERSONNEL in SUBCONTRACTED FIRMS
BLOCK 11.	RELEVANT EXPERIENCE (5 Projects)
BLOCK 12.	ADDITIONAL INFORMATION
BLOCK 13.	RELATED WORK - CURRENT AND PREVIOUS WORK
BLOCK 14.	BANKRUPTCY
BLOCK 15.	LEGAL SANCTIONS
BLOCK 16.	SIGNATURE



<b>5. LEGAL STRUCTURE OF FIRM</b>		
SOLE PROPRIETOR <input type="checkbox"/> PARTNERSHIP <input type="checkbox"/> *CORPORATION <input type="checkbox"/> *LLC/LLP <input type="checkbox"/> OTHER <input type="checkbox"/>		
* GIVE EXACT CORPORATE NAME		
* STATES IN WHICH FIRM IS INCORPORATED		
NAMES AND TITLES OF PERSONS AUTHORIZED TO SIGN A CONTRACT		
NAME	TITLE	PA REG. NO.

<b>6. PERSONNEL BY DISCIPLINE</b>							
List the number of personnel by discipline that are presently regular employees of the Prime Firm at the office location designated to perform the work. Each person should be counted only once in accord with his/her primary function.							
	Registered	Professional Degree	Other	Function	Registered	Professional Degree	Other
Administrative/Clerical				Engineers:			
Architects				Civil			
Landscape Architects				Structural			
Specification Writers				Plumbing			
Drafters/Designers				Fire Protection			
Estimators				HVAC			
Quality Assurance Staff				Electrical			
Inspectors				IT/Data/Communications			
Project Managers				Surveyors			
Other(s) (Please List)				Geo-Technical/Soils			
				Total - All Disciplines			

**7. JOINT VENTURE FIRMS AND RESPONSIBILITIES**

For a Joint Venture, list participating firms and briefly outline specific areas of responsibility for each firm. If the Joint Venture receives a contract, a copy of the Joint Venture Agreement must be provided. Complete Items 1 through 6 of this form for each Joint Venture firm.

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HAS THIS JOINT VENTURE PREVIOUSLY WORKED TOGETHER? <input type="checkbox"/> YES <input type="checkbox"/> NO	IF YES, NUMBER OF COMPLETED PROJECTS	TOTAL PROJECTS COSTS \$
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**8. SUBCONTRACTED FIRMS**

Designate the firms that will hold subcontracts with the Prime Firm for this project. Firms must be utilized by the Prime Firm and may be changed only upon approval of the System.

NAME AND ADDRESS	SPECIALTY/DISCIPLINE	PROJECTS WORKED WITH PRIME BEFORE	
		NUMBER	TOTAL PROJECTS COSTS

**9. KEY PERSONNEL in PRIME/JOINT VENTURE**

Complete for the key personnel of the Prime Firm/Joint Venture Firms to be assigned to this project. Use additional pages as needed. One or two-page résumés may be provided at the end of this document.

<b>NAME</b>	CURRENTLY EMPLOYED BY
ASSIGNMENT FOR THIS PROJECT	YEARS WITH THIS FIRM
DISCIPLINE/TITLE WITH THIS FIRM	YEARS WITH OTHER FIRMS
PA REGISTRATION Classification Certificate No. Expires OTHER STATES REGISTERED	ADDITIONAL INFORMATION AND CERTIFICATIONS
EDUCATION College Discipline Degree Year	
<b>NAME</b>	CURRENTLY EMPLOYED BY
ASSIGNMENT FOR THIS PROJECT	YEARS WITH THIS FIRM
DISCIPLINE/TITLE WITH THIS FIRM	YEARS WITH OTHER FIRMS
PA REGISTRATION Classification Certificate No. Expires OTHER STATES REGISTERED	ADDITIONAL INFORMATION AND CERTIFICATIONS
EDUCATION College Discipline Degree Year	
<b>NAME</b>	CURRENTLY EMPLOYED BY
ASSIGNMENT FOR THIS PROJECT	YEARS WITH THIS FIRM
DISCIPLINE/TITLE WITH THIS FIRM	YEARS WITH OTHER FIRMS
PA REGISTRATION Classification Certificate No. Expires OTHER STATES REGISTERED	ADDITIONAL INFORMATION AND CERTIFICATIONS
EDUCATION College Discipline Degree Year	

**10. KEY PERSONNEL in SUBCONTRACTED FIRMS**

Complete for the key personnel of Subcontracted Firms to be assigned to this project. Use additional pages as needed. One or two-page résumés may be provided at the end of this document.

<b>NAME</b>	CURRENTLY EMPLOYED BY
ASSIGNMENT FOR THIS PROJECT	YEARS WITH THIS FIRM
DISCIPLINE/TITLE WITH THIS FIRM	YEARS WITH OTHER FIRMS
REGISTRATION Classification Certificate No. STATES REGISTERED	ADDITIONAL INFORMATION AND CERTIFICATIONS
State Expires	
EDUCATION College Discipline Degree	ADDITIONAL INFORMATION AND CERTIFICATIONS
State Year	
<b>NAME</b>	CURRENTLY EMPLOYED BY
ASSIGNMENT FOR THIS PROJECT	YEARS WITH THIS FIRM
DISCIPLINE/TITLE WITH THIS FIRM	YEARS WITH OTHER FIRMS
REGISTRATION Classification Certificate No. STATES REGISTERED	ADDITIONAL INFORMATION AND CERTIFICATIONS
State Expires	
EDUCATION College Discipline Degree	ADDITIONAL INFORMATION AND CERTIFICATIONS
State Year	
<b>NAME</b>	CURRENTLY EMPLOYED BY
ASSIGNMENT FOR THIS PROJECT	YEARS WITH THIS FIRM
DISCIPLINE/TITLE WITH THIS FIRM	YEARS WITH OTHER FIRMS
REGISTRATION Classification Certificate No. STATES REGISTERED	ADDITIONAL INFORMATION AND CERTIFICATIONS
State Expires	
EDUCATION College Discipline Degree	ADDITIONAL INFORMATION AND CERTIFICATIONS
State Year	



**11. RELEVANT EXPERIENCE (5 Projects)**

Describe 5 projects performed by the Prime Firm/Joint Venture Firms that best illustrate current qualifications relevant to this project. Projects should have been performed by the office location designated to perform the work. Relevant projects performed by key personnel during previous employment may also be listed. Do not list projects performed by Subcontracted Firms, but if a Subcontracted Firm also worked on a listed project, it may be noted.

**PROJECT NO. 1**

PROJECT NAME

PROJECT LOCATION

PROJECT DESCRIPTION

NATURE OF FIRM'S RESPONSIBILITY (If work was done by key personnel and/or Subcontracted Firms, identify them and their responsibility. For key personnel, also identify the firm for which they worked at the time.)

SCHEDULE DATES (indicate whether actual or projected)

Design Start Date

Construction State Date

Construction Completion Date

PROJECT COSTS

Design Contract Value

Total Construction Value

OWNER and CONTACT PERSON (Name, Address, Phone, E-mail) May be contacted as a reference.

COMMENTS/WHAT MAKES THIS PROJECT RELEVANT?

**PROJECT NO. 2**

PROJECT NAME

PROJECT LOCATION

PROJECT DESCRIPTION

NATURE OF FIRM'S RESPONSIBILITY (If work was done by key personnel and/or Subcontracted Firms, identify them and their responsibility. For key personnel, also identify the firm for which they worked at the time.)

SCHEDULE DATES (indicate whether actual or projected)

Design Start Date

Construction State Date

Construction Completion Date

PROJECT COSTS

Design Contract Value

Total Construction Value

OWNER and CONTACT PERSON (Name, Address, Phone, E-mail) May be contacted as a reference.

COMMENTS/WHAT MAKES THIS PROJECT RELEVANT?

**PROJECT NO. 3**

PROJECT NAME

PROJECT LOCATION

PROJECT DESCRIPTION

NATURE OF FIRM'S RESPONSIBILITY (If work was done by key personnel and/or Subcontracted Firms, identify them and their responsibility. For key personnel, also identify the firm for which they worked at the time.)

SCHEDULE DATES (indicate whether actual or projected)

Design Start Date

Construction Start Date

Construction Completion Date

PROJECT COSTS

Design Contract Value

Total Construction Value

OWNER and CONTACT PERSON (Name, Address, Phone, E-mail) May be contacted as a reference.

COMMENTS/WHAT MAKES THIS PROJECT RELEVANT?

PROJECT NO. 4

PROJECT NAME

PROJECT LOCATION

PROJECT DESCRIPTION

NATURE OF FIRM'S RESPONSIBILITY (If work was done by key personnel and/or Subcontracted Firms, identify them and their responsibility. For key personnel, also identify the firm for which they worked at the time.)

SCHEDULE DATES (indicate whether actual or projected)

Design Start Date

Construction State Date

Construction Completion Date

PROJECT COSTS

Design Contract Value

Total Construction Value

OWNER and CONTACT PERSON (Name, Address, Phone, E-mail) May be contacted as a reference.

COMMENTS/WHAT MAKES THIS PROJECT RELEVANT?

**PROJECT NO. 5**

PROJECT NAME

PROJECT LOCATION

PROJECT DESCRIPTION

NATURE OF FIRM'S RESPONSIBILITY (If work was done by key personnel and/or Subcontracted Firms, identify them and their responsibility. For key personnel, also identify the firm for which they worked at the time.)

SCHEDULE DATES (indicate whether actual or projected)

Design Start Date

Construction Start Date

Construction Completion Date

PROJECT COSTS

Design Contract Value

Total Construction Value

OWNER and CONTACT PERSON (Name, Address, Phone, E-mail) May be contacted as a reference.

COMMENTS/WHAT MAKES THIS PROJECT RELEVANT?

**12. ADDITIONAL INFORMATION**

Provide any additional information or description of resources supporting the qualifications of the Prime Firm/Joint Venture Firms and the Subcontracted Firms. If the Prime Firm/Joint Venture Firms have offices in addition to the office location designated to perform the work, provide information on those other offices and personnel, particularly if they represent a resource that might assist in performance of the work. Use additional pages as needed.

**13. RELATED WORK - CURRENT AND PREVIOUS WORK OF PRIME FIRM/JOINT VENTURE FIRMS AND SUBCONTRACTED FIRMS**

- List all DGS and PASSHE projects and/or contracts for which the Prime Firm, Joint Venture Firms, and all Subcontracted Firms have been designated as Professional-of-Record, retained as a consultant, or similar function. Indicate that role with the Project/Contract No.
- Include all projects and/or contracts for which a certificate of completion was executed within the last five (5) years, for which a certificate of completion has not been executed, and for which the firm was selected but not yet under contract.

Use additional pages as needed.

FIRM NAME	PROJECT/CONTRACT NO.	TITLE/LOCATION	DATE OF APPT. (MM/YY)	TOTAL ALLOCATION/FIRM'S RESPONSIBILITY	PRESENT STATUS	COMMENTS/REMARKS

**14. BANKRUPTCY**

During the past five (5) years, have any of the Prime Firm/Joint Venture Firms or the Subcontracted Firms filed for bankruptcy?  YES  No  
If yes, was the bankruptcy filed in the  name of the firm or  by an individual member of the firm? If filed in the name of an individual, give the name of the individual.

NAME OF FIRM/INDIVIDUAL	DATE OF FILING
OUTCOME OF FILING	

**15. LEGAL SANCTIONS**

Have any of the Prime Firm/Joint Venture Firms of the Subcontracted Firms, any of their individual members, any officer, or any principal been the subject of any professional or legal sanctions against them in connection with their work?  
 YES  NO If Yes, explain below the circumstances of the sanction and when it occurred.

--

**16. SIGNATURE**

The Signatory below certifies that the information contained in this Form 150-ASP is true. False statements made in this document are punishable under 18 P.S. 4904.

**Signature\*** \_\_\_\_\_

**Typed Name and Title** \_\_\_\_\_

**Date** \_\_\_\_\_

\*The signature must be an original signature.

By signing this application, the Applicant consents to the evaluation of its performance by the State System of Higher Education and understands that any such evaluation may be used in future selections of firms. The Applicant's Subcontracted Firms may also be evaluated. The Applicant is required to notify each of its Subcontracted Firms that, in contracting with the Applicant, the Subcontracted Firms consent to the System's evaluation of the Subcontracted Firms and to the use of any such evaluation in future selections of firms.



**PENNSYLVANIA STATE SYSTEM OF HIGHER EDUCATION  
COMMONWEALTH OF PENNSYLVANIA**

**BUSINESS CERTIFICATION FORM**

**A. TYPE OF BUSINESS**

**1. CORPORATION**

**(Circle either HAS or HAS NOT)**

\_\_\_\_\_ is a corporation organized and existing under the laws of \_\_\_\_\_ and **HAS / HAS NOT** been granted a certificate of authority to do business in Pennsylvania as required by the Business Corporation Law, approved May 5, 1933, P.L. 364, as amended.

If the corporation **HAS NOT** been granted a certificate of authority to do business in Pennsylvania, but has submitted an application for certification to the appropriate agency of the Commonwealth of Pennsylvania, provide the date of application

\_\_\_\_\_.

**2. INDIVIDUAL, PARTNERSHIP, OR OTHER**

**(Circle either HAS or HAS NOT)**

(Not a Corporation. Doing business under a name other than your own.)

\_\_\_\_\_ is an individual or partnership trading under a fictitious or assumed name and **HAS / HAS NOT** registered under the Fictitious Name Act of Pennsylvania; namely, the Act of May 24, 1945, P.L. 967.

**B. RESIDENCY**

**(Circle either YES or NO)**

Does your firm have a bona fide establishment in Pennsylvania at which it was transacting business when the Notice to Contractors for this project was issued? **YES / NO**

If "**YES**" provide the Pennsylvania address.

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

If "**NO**" provide the address of the office at which this bid was prepared.

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

*(Please supply street address in lieu of a post office box.)*

# **BUSINESS CERTIFICATION FORM**

Signature Page

I state that \_\_\_\_\_

(Name of Bidder)

understands and acknowledges that the above representations are material and important, and will be relied on by the Pennsylvania State System of Higher Education in awarding the contract(s) for which this bid is submitted.

I understand, and my firm understands, that any misstatement shall be treated as fraudulent concealment from the Pennsylvania State System of Higher Education of the true facts relating to the submission of this bid.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signatory's Name

\_\_\_\_\_  
Title

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires:

**STATE SYSTEM OF HIGHER EDUCATION  
CONTRACT COMPLIANCE REQUIREMENTS**

1. Contractor's Name: \_\_\_\_\_ Contract No. \_\_\_\_\_  
Contractor's Equal Employment Opportunity Officer: \_\_\_\_\_  
Contract Location: \_\_\_\_\_
  
2. The Contractor agrees to send a signed statement of the Contractors Notice of the Nondiscrimination Clause to all subcontractors, suppliers, vendors, and labor organizations, as required.
  
3. The undersigned, in person or by duly authorized representative, hereby certifies that the Contractor shall comply with the provisions of 22 Pennsylvania Code Chapter 509 and all statutes and regulation regarding equal opportunity employment and agrees that the following steps will be taken to assure equal opportunity in employment:
  - a. Require that all advertisements for personnel contain the notation An Equal Opportunity Employer A and that all advertisements be inserted in newspapers having a large general circulation, or other media reaching a large portion of the population in the area and among minority groups.
  - b. Use direct and systematic recruitment of personnel through the applicable public (PA Job Service) and private employee referral sources likely to yield qualified minority group applicants, including but not limited to schools, colleges and minority group organizations.
  - c. Encourage minority group applicants through referral by current employees.
  
4. It is further hereby agreed as part of this application that, in order to assure nondiscriminatory hiring, the following steps shall be taken:
  - a. All members of Contractor's staff authorized to hire and discharge or to recommend such actions are fully cognizant of the Contractor's Equal Employment Policy commitments as required by the nondiscrimination clause of this contract.
  - b. Cooperation will be actively sought with unions, where applicable, to develop programs to assure qualified minority group persons of equal opportunity for employment and training.
  
5. It is further hereby agreed, that the Contractor will make use of apprenticeship and/or other training programs by:
  - a. Assisting minority group members to enter pre-apprenticeship training programs; and/or,
  - b. Actively assisting minority group employees to increase skills to be eligible for upgrading, and/or,
  - c. Actively participating in programs for fair and equal consideration of all applicants, such programs having been approved by the Bureau of Apprenticeship and Training of the U. S. Department of Labor, and/or the Pennsylvania Apprenticeship and Training Council, where applicable.

6. It is also agreed that when bids are being solicited, the Contractor shall actively solicit bids from minority subcontractors and suppliers.
7. It is further agreed that effort will be made to obtain qualified minority group representation in all classes of employment on the job and in phases of work.
8. It is further agreed that the Contractor will submit a progress report (STD-21) on a monthly basis for the life of the project that demonstrates implementation of the agreed to provisions of the Contract Compliance Regulations.
9. It is further agreed that during the term of the contract, the Contractor shall agree to the following:

#### **NONDISCRIMINATION / SEXUAL HARASSMENT CLAUSE**

In the hiring of any employees for the manufacture of supplies, performance of work, or any other activity required under the Agreement or any subcontract, the Contractor, subcontractor, or any person acting on behalf of the Contractor or subcontractor shall not by reason of gender, race, religious creed, or color, discriminate against any citizen of this Commonwealth who is qualified and available to perform the work to which the employment relates.

Neither the Contractor nor any subcontractor nor any person on their behalf shall in any manner discriminate against or intimidate any employee involved in the manufacture of supplies, the performance of work, or any other activity required under the Agreement on account of gender, race, religious creed, or color.

The Contractor and subcontractors shall establish and maintain a written sexual harassment policy and shall inform its employees of the policy.

The Contractor and each subcontractor shall furnish all necessary employment documents and records to and permit access to its books, records, and accounts by the Contracting Officer and the Department of General Services' Bureau of Minority and Women Business Opportunities for purposes of investigation to ascertain compliance with the provisions of this Nondiscrimination/Sexual Harassment clause. If the Contractor or any subcontractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Contracting Officer or the Bureau of Minority and Women Business Opportunities.

The Contractor shall include the provisions of this Nondiscrimination/Sexual Harassment clause in every subcontract so that such provisions will be binding upon each subcontractor.

The System may cancel or terminate the Agreement and all money due or to become due under the Agreement may be forfeited for a violation of the terms and conditions of this Nondiscrimination/Sexual Harassment clause.

[THE REMAINDER OF THIS PAGE DELIBERATELY LEFT BLANK.]

Dated at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
(Name of Contractor) ..... (Signature & Title of Person Signing)

BY:

COUNTY OF \_\_\_\_\_ SS:

COMMONWEALTH OF \_\_\_\_\_

\_\_\_\_\_ being duly sworn, deposes and says that he is

\_\_\_\_\_ of \_\_\_\_\_ .

and acknowledges that he executed the foregoing statement for the purpose herein contained.

My commission expires: \_\_\_\_\_ Sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 19 \_\_.

\_\_\_\_\_  
(Notary Public)

PROFESSIONAL FEE COST PRINCIPLES  
for  
Single Project Professional Design Contracts  
October 10, 2012

I. OBJECTIVES

The Pennsylvania State System of Higher Education and its Universities (System) will attempt to negotiate fair and reasonable fees for work under the Agreement. The System will not, at any time, base the Professional's compensation solely on any percent-of-construction-cost method.

The Professional's Fee Proposal and all cost or pricing data required shall be submitted in accordance with the instructions contained herein.

These principles may differ from other cost principles for work that has been or is being performed under other contracts with the System and its Universities.

II. REASONABLENESS

A cost is reasonable if it does not exceed that which would be incurred by an ordinarily prudent person in the conduct of competitive business considering:

- ordinary and necessary sound business practices
- arms-length bargaining
- laws and regulations
- contract terms and specifications
- reasonable explanation of significant deviations from established practices
- competitive constraints

III. DIRECT COSTS

A Direct Cost is any cost which can be identified specifically within the scope of the work of a Work Order, and which is routinely chargeable directly to the work.

Under a Work Order, Direct Costs are considered to include Direct Labor Costs, Consultants' Fees, and Reimbursable Expenses, as defined herein.

A. Direct Labor Costs

Direct Labor Costs normally include the salaries (Hourly Wage Rates) for regular time for the Professional's employees. Direct Labor Costs shall be in the form of Hourly Wage Rates for the various employee work classifications as categorized by the System.

The Proposed Standard Work Classifications are in Attachment 1. Wage rates will be for specific rates for classifications and not wage-rate "bands." The classification for each identified as the "1" should be the higher rate, and the "2" should be the lower rate. There is no standard definition of "1" and "2." They simply allow a firm to propose two rates for a classification. If a firm has additional classifications that it believes should be included in its contract, based on specialized types of services, they may be proposed.

The Specific Wage Rates negotiated for this Project will be the only rates to be used for the basic Agreement and any future change orders or fiscal adjustments. Exceptions from the Standard Work Classifications will be made only for special circumstances.

Partners and Principals are considered to be part of General And Administrative Overhead Costs, and shall not have a Direct Labor Hourly Rate. Should a Partner or Principal wish to participate on a specific project, their rate of compensation shall be commensurate with the Hourly Wage Rate of another employee working in the Employee Classifications in which the Partner or Principal is functioning, at the Hourly Wage Rate for that Employee Classification, and not at a Partner or Principal Hourly Wage Rate.

#### B. Consultant Fees

Consultants' Direct Labor Costs, Labor Overhead Costs, and General and Administrative Overhead Costs shall be submitted through the Lead Professional. Consultants are expected to adhere to these same Professional Fee Cost Principles.

When a fee is negotiated for the Project, it will be understood that any Consultants' Fees included in the Proposal have been submitted or quoted to the Professional, and shall be attached to the Professional's Fee Proposal.

Normally, Consultants' Fees for the Project should be itemized in the same manner as the Professional's Fee. In certain cases, particularly when the Consultant's Fee is a relatively minor amount, a lump sum may be accepted. Estimates for Consultants' Fees are not acceptable; however, a not-to-exceed cost may be acceptable in certain circumstances.

The System does not allow a markup by the Lead Professional on fees/charges from Consultants who are providing routine design services as part of the firm's regular team. The System does, however, accept a maximum of 10% markup on specialized Consultants' fees/charges. The amount of markup allowed for a Consultant will be inversely proportional to the amount of the Consultant's work in relation to the Professional's overall work on the Project.

#### C. Reimbursable Expenses

Separately-costed minor reimbursable expenses will be minimized. All minor expenses that could be costed against a specific project, but which are more easily accounted for in an overhead account, will be included in the Professional's General and Administrative Overhead.

When authorized, Reimbursable Expenses will be identified as a not-to-exceed amount in the Project design services Agreement. Expenses will be invoiced and reimbursed only to the extent that they are incurred. There shall be no markup (overhead and/or profit) on Reimbursable Expenses.

The following expenses are not authorized Reimbursable Expenses. Instead, they shall be provided for in General and Administrative Overhead:

- Mail, express mail, shipping, etc.

- Phone calls

- Copying/printing/reproduction for the Professional's use (working sets, submittals, etc.)

- Reproduction being reimbursed through other means (bid sets paid for by bidders)

- Routine laboratory costs

- Routine permits and fees associated with being in business

- Meal costs and miscellaneous expenses associated with one-day travel

- Vehicle mileage for roundtrips of less than 200 miles

The following expenses are authorized Reimbursable Expenses:

Copying/printing/reproduction at the direction of or for use by the System (for other than regularly scheduled and required design submittals)

Permits/fees required for the project

Vehicle mileage in excess of 200 miles roundtrip (marginal miles only)

Tolls

Air travel \*

Car rentals \*

Travel, lodging, and meal costs associated with overnight travel \*

\* For these expenses, prior approval by the System is required. Reimbursement is limited to System travel regulation standards, except in unusual circumstances. Professionals will be expected to minimize reimbursable expenses associated with overnight travel.

All costs associated with Computer-Aided Drafting and Design (CADD) systems, Estimating software, Project/Construction Management software, Scheduling software, and/or similar software licensing or access, or operations and maintenance of such software, are to be included as General and Administrative Overhead Costs.

#### IV. INDIRECT COSTS

An Indirect Cost is one that, because of its occurrence for common or joint objectives, is not readily subject to treatment as a Direct Cost. Indirect Costs are grouped into:

- Labor Overhead Costs. Includes employment taxes, medical benefits, vacation, holiday time, etc.
- General and Administrative Overhead Costs. Includes the cost of being in business, such as real estate taxes, rent, utilities, etc.

##### A. Overhead Rates

The Labor Overhead Rate shall be calculated by dividing the Total Allowable Labor Overhead Costs by the Total Direct Labor Costs for that same fiscal year.

The General and Administrative Overhead Rate shall be calculated by dividing the Total Allowable General and Administrative Overhead Costs by the Total Direct Labor Costs for that same fiscal year.

##### B. Financial Statements

The Professional shall provide its latest Financial Statement, prepared by the accounting firm that prepares Financial Statements for the Professional.

The Financial Statements shall include:

- an Indirect Cost Analysis identifying the Direct Labor Costs for the firm
- a breakdown of the firm's Labor Overhead Costs
- a breakdown of the firm's General and Administrative Overhead Costs



Indirect Cost Analyses shall provide for the following:

- Indirect Costs for the Professional that are listed herein as Unallowable Costs (Part IV.D.) are to be listed separately and identified as such on the analyses.
- Direct Costs, such as for Consultants, should be identified and excluded from the analyses.

The Financial Statement will remain confidential within the System and will not become public information.

#### C. Unallowable Costs

The following are Unallowable Costs, and should be deleted from any Indirect Cost Analysis used to calculate the Overhead Rates:

- Advertising/promotional/marketing cost
- Bad debts
- Contingencies
- Contributions and donations
- Dividend provisions, payments or distributions of profit(profit sharing)
- Employee bonus plans
- Entertainment costs
- Expenses identified as reimbursables in Part III.C.
- Fines and penalties
- Idle facility costs
- Insurance costs on the lives of principals or employees when the firm is beneficiary
- Interest and other financial costs
- Initial organization or reorganization costs
- Losses on other contracts

#### D. Multi-Branch Firms, Joint Ventures, or Affiliates

In the case of multi-branch firms, joint ventures, or affiliates, only the Indirect/Overhead Costs applicable to the specific location(s) where the work is to be performed will be included. Company-wide, joint venture, or affiliate rate averages are not appropriate. The Indirect Costs and resulting Total Labor Multiplier (Part VI.) should be tailored to the office where the work will be accomplished. The objective is to allocate Indirect Costs more precisely.

#### V. PROFIT

The System allows a fair and reasonable Profit. Profit is provided for by its inclusion in the Total Labor Multiplier, and therefore is established for the duration of the Project design services agreement. The Professional's proposed profit rate for the Project shall be submitted as part of the Professional's fee proposal. The allowed profit rate for the Project shall be negotiated between the selected Professional and the University after considering any or all of the following:

- degree of risk
- nature of the work to be performed
- extent of professional's investment
- amount of subcontracted work

The Professional shall provide a justification statement regarding the proposed profit rate.

#### VI. TOTAL LABOR MULTIPLIER

The Total Labor Multiplier (TLM) consists of the combination of Labor Overhead and General and Administrative Overhead plus a mark-up for Profit.

The Total Labor Multiplier shall be determined as follows:

1. Determine the Labor Overhead Rate, expressed as a decimal (i.e. 0.40)
2. Determine the General and Administrative Overhead Rate, expressed as a decimal (i.e. 1.10)
3. Add the two figures together, expressed as a decimal (i.e. 1.50)
4. Add 1.00 to the result (i.e. 2.50)
5. Multiply by a mark-up for Profit, (i.e. for 10%, multiply by 1.1, = 2.75)
6. The result is the Total Labor Multiplier, (i.e. 2.75)

#### VII. THE FEE PROPOSAL AND NEGOTIATIONS

The selected design Professional will be requested to submit a Project fee proposal in two parts as described below.

##### A. Negotiation of Effective or Billable Rates for the Project Agreement

Negotiations will focus on reaching agreement on the Hourly Base Wage Rates for the various Employee Work Classifications, and reaching agreement on the Total Labor Multiplier. After agreement on both, the Effective Labor Rates for the various Employee Work Classifications will be established by multiplying the various Hourly Base Wage Rates by the Total Labor Multiplier.

The Effective Labor Rates will be included in Exhibit D to Rider B of the Project design services Agreement.

##### B. Negotiations of the Total Professional Fee for the Project

Negotiations will focus on reaching agreement on a Total Price for the Project scope of work.

This Total Price will be developed by the Professional as follows:

- 1) Identify the Work Tasks necessary to complete the scope of work under each Design Phase and/or Project Phase. The number of Work Tasks should be in sufficient detail to explain what work the Professional will be accomplishing in each Phase.
- 2) Assign the categories (Categorized Work Classifications) of personnel necessary to perform each Work Task identified.
- 3) Estimate the Man-Hours for each category to accomplish each Work Task.
- 4) Multiply the Man-Hours by the Effective Labor Rates.
- 5) Total the costs for each Work Task and/or Phase.

- 6) Total the costs for all Work Tasks and/or Project Phases to arrive at the Total Work Order Price.
- 7) If Consultants' costs are not itemized per the process in 1) through 6) above, include their costs as a not-to-exceed lump sum(s), broken down by Work Task and/or Phase.
- 8) Itemize any required Reimbursable Expenses and arrive at a not-to-exceed amount(s), broken down by Work Task and/or Phase.

#### VIII. SCHEDULE

With the Project fee proposal, the Professional will provide a bar chart that displays the Work Tasks they have identified as part of their Fee Proposal and the number of Man-Hours per Work Task distributed on a timeline for the project. The duration and schedule shall be negotiated.

## ATTACHMENT 1

### Proposed Standard Work Classifications for Wage Rates

#### PROFESSIONAL:

Project Manager 1  
Project Manager 2  
Architect 1  
Architect 2  
Civil Engineer 1  
Civil Engineer 2  
Mechanical Engineer 1  
Mechanical Engineer 2  
Electrical Engineer 1  
Electrical Engineer 2  
Structural Engineer 1  
Structural Engineer 2  
Traffic Engineer 1  
Traffic Engineer 2  
Interior Designer 1  
Interior Designer 2  
Landscape Architect 1  
Landscape Architect 2  
Environmental Engineer 1  
Environmental Engineer 2  
Fire Protection Engineer 1  
Fire Protection Engineer 2  
Geotechnical Engineer 1  
Geotechnical Engineer 2  
Construction Manager 1  
Construction Manager 2

#### TECHNICAL:

Cost Estimator 1  
Cost Estimator 2  
Designer  
Draftsman  
CADD Specialist 1  
CADD Specialist 2  
Spec Writer 1  
Spec Writer 2  
Surveyor 1  
Surveyor 2  
Surveyor Team  
Clerical/Administrative Asst. 1  
Clerical/Administrative Asst. 2