

**MESA COLLEGE PREP PROGRAMS
RECITALS & TERMS AND CONDITIONS
FOR AGREEMENTS FOR THE PERIOD OF 2020-2023**

Whereas, The Regents of the University of California, Office of the President (hereinafter called The Regents) administers the Mathematics, Engineering, Science Achievement (MESA) program to: help K-12 and community college students excel in math and science; encourage graduation from four-year institutions with degrees in science, engineering, computer science and other math-based fields; and support related workforce preparation; and

Whereas, as part of the MESA program, the Regents provides management and oversight of the MESA College Prep Program, which focuses on students at middle and senior high schools (and some elementary schools); and

Whereas, the Campus has been selected for the continuation or establishment of a MESA College Prep Program Center to provide local MESA College Prep Program services; and

Whereas, The Regents MESA Statewide Office will provide technical and financial support and programmatic oversight to the Campus MESA College Prep Center; and

Whereas, Campus commits to management of its MESA College Prep Center and school programs, and to the delivery of services to partner schools, their teachers, students and parents, and other staff;

NOW THEREFORE, the parties mutually agree to the following conditions:

I. CAMPUS' PRINCIPAL INVESTIGATOR AND CENTER DIRECTOR

The MESA Statewide Deputy Director shall be notified of any pending action that could result in the appointment or resignation of Principal Investigator or Center Director. In the case of hiring of a new Center Director, the MESA Statewide Office will be represented on the search committee. Campus is responsible for assuring that the Center Director has annual performance evaluations per local Campus personnel policies.

II. THE REGENTS PROGRAM ADMINISTRATION REPRESENTATIVE

The Regents representative for program administration of this Agreement is Juanita Muñiz-Torres, MESA Statewide Deputy Director (address set forth in Article XIX).

III. PROGRAM OPERATIONS

In performing the services under this Agreement, Campus agrees to provide appropriate and sufficient space for its MESA College Prep Program operations and other campus resources as negotiated to ensure the success of the MESA College Prep Program. Any decisions that significantly impact MESA College Prep Program Campus operations, including a consequential reduction in proposed matching funds, require The Regents' prior approval.

Funds provided to Campus from the MESA Statewide Office are to be used solely to support the MESA College Prep Program, and cannot be used as a match/cost share against other funds. MESA serves students from groups determined by the California Postsecondary Education Commission to

have low four-year college eligibility rates, and students determined to be educationally disadvantaged. Campus shall use the following five categories of indicators for determining that students qualify as educationally disadvantaged: economic disadvantage indicators; program participation history/experience indicators; education environment indicators; academic preparation disadvantage indicators, and family/home environment disadvantage indicators. The selection of MESA program participants is the responsibility of the Campus MESA program center staff.

IV. CARRY-FORWARDS AND EXTENSIONS

Campus may request approval for carry-over of funds from one fiscal year to the next, or an extension of this Agreement (after June 30, 2023), using the MESA Budget Change Approval Formⁱ. Such request will provide a justification of the proposed action, identify any unexpended funding, and specify how such funds are proposed to be used.

V. COST/BUDGET/PAYMENT/INTEREST

Program Cost and Funding

- A. It is mutually agreed upon by the parties that this Agreement has been written before ascertaining the availability of congressional or legislative appropriations of funds for the mutual benefit of both parties, in order to avoid program or fiscal delays that would occur if this Agreement were signed after that determination was made.

This Agreement is viable and enforceable only if sufficient funds are appropriated to The Regents of the University of California for the purpose of this program. Funding is contingent upon approval of the State Budget by the Legislature and the Governor. Should sufficient funds not be appropriated, The Regents will notify Campus and proceed with the cancellation of this Agreement or modification in scope and budget, as appropriate.

B. Budget

1. Non-UC campuses may charge indirect costs to this Agreement up to a maximum of 5% of total direct costs.
2. Campus shall expend funds as set forth in Exhibit A, the approved budget. Campus may re-budget individual line items without prior approval up to 20% of the total annual amount provided by The Regents for those line items. Requests for re-budgeting exceeding this amount must be submitted to the MESA Statewide Deputy Director using MESA Budget Change Approval Formⁱ, with an explanation of why funds need to be redistributed and how they will be spent.
3. If applicable, the approved budget identifies funds provided for MESA special projects (such as MESA Day). Funds provided for any identified special projects may not be redirected towards the core MESA Center activities without prior approval.
4. Funds remaining unexpended or un-obligated at the end of each fiscal year must be returned to the MESA Statewide Office with the annual financial report, unless the MESA Statewide Deputy Director permits Campus to apply unexpended funds toward the next program period (see

MESA Budget Change Approval Formⁱ referenced above). A request to carry forward funds must include: a) the amount left unexpended; b) an explanation as to why funds were not spent during the period of performance; and c) a narrative and budget on how they will be spent.

5. Requirements for funding eligibility for future periods include the timely completion and submission of all Deliverables.

C. Payment

100% of funds provided for the yearly operations under this Agreement shall be paid annually after execution by The Regents of this Agreement (and Amendments in subsequent periods), and passage of the California State budget. Non-UC Campuses must submit an annual Certificate of Insurance (see Article XV) to The Regents before payment can be made.

D. Interest

Interest earned on funds provided through this Agreement may be used for purposes of this Agreement only.

VI. FISCAL AND ADMINISTRATIVE STANDARDS

Allowable costs and administration shall be governed by standards as set forth in this Agreement and the federal Uniform Guidance at 2 C.F.R. 200, in that order of precedence. (Note: Although funds used to support this Agreement are **non-federal**, The Regents is adopting the regulations at 2 C.F.R. 200 as best / established institutional practices and procedures.)

VII. FINANCIAL, ACCOUNTING, RECORDS, REPORTS

- A. Campus shall maintain accurate accounts, records and other evidence pertaining to costs incurred in satisfaction of the terms of this Agreement.
- B. This Agreement shall be subject to examination and audit by The Regents or its external auditor and the State Auditor General for a period of three years after termination of this Agreement. The examination and audit shall be confined to those matters connected with the performance and administration of this Agreement, including, but not limited to, the cost of administering this Agreement.
- C. Campus shall submit a financial report detailing expenditures for this project, including cash and in-kind contributions from all sources, within 60 days of expiration or termination, whichever occurs first. Annual reports for each fiscal year (July 1 – June 30) shall be submitted by the third or fourth Friday in August, as indicated in the annual Deliverables Schedule. For fiscal year 2020-2021, this report is due August 20, 2021. For fiscal year 2021-2022, this report is due August 19, 2022. For fiscal year 2022-2023, this report is due August 18, 2023.
- D. 60 days prior to the end of each program yearⁱ, Campus shall submit estimated budgets for the following year operations.

VIII. COLLECTION AND TRANSMISSION OF INFORMATION

Campus may not collect information by interview or by questionnaire from the public and represent that it is being collected by or for the MESA Statewide Office without the prior written approval of the MESA Statewide Office.

In accordance with California Civil Code Section 1798.29, any collection of data (e.g. electronic [database], or hard copy) containing personal identifying information such as social security number, name and address, must safeguard the personal identifying information. Campus agrees to implement appropriate safeguards in the collection of personal data in their local Campus system, and during transmission of such data to the MESA Statewide Office, and assumes responsibility for notification to Campus database subjects of security breaches, if any, as required by law.

IX. PUBLICATION AND ACKNOWLEDGMENT OF SUPPORT

A. Campus may publish results of its MESA College Prep Program Center activity accomplished under this Agreement, provided that such publications (printed, visual, or sound) contain 1) an acknowledgement of participation in the MESA organization administered and funded by The Regents, and 2) a statement that findings, conclusions and recommendations are those of the author only and do not necessarily represent the views of the MESA Statewide Office. Two copies of all such publications must be furnished to the MESA Statewide Deputy Director following publication.

B. Tangible results of MESA College Prep Program Center activity produced under this Agreement (i.e., productions, displays, exhibits, etc.) shall bear the following acknowledgement: ***“Financial support provided by the MESA™ Program of The Regents of the University of California.”***

X. MESA LICENSE, COPYRIGHT, SERVICE MARK, LOGO, AND USE OF NAME

A. Title and Ownership of MESA Name and Materials:

It is understood that the MESA logo is a protected service mark that has been registered with the US Patent and Trademark Office and the California Secretary of State by The Regents.

It is further understood that The Regents holds the protected registered service mark to the MESA name, and all related names such as MESA College Prep Program, MESA University Program, etc., and the copyright in materials of the MESA Model, including but not limited to the program’s published operations manuals, handbooks, student database management system and accompanying user manual, videos, newsletters, and brochures hereinafter called “Licensed Materials.” Licensed Materials are, and shall at all times remain the property of The Regents. The Regents shall own all right, title and interest in the Licensed Materials. Campus shall have no right, title, or interest in the MESA marks or in the Licensed Materials, except as expressly set forth in this Agreement.

B. Use of MESA Licensed Materials by Campus:

In fulfilling the duties and responsibilities under this Agreement, under the terms and conditions herein, Campus is authorized to use the MESA name and the MESA logo. It is agreed that the MESA logo must be used on all official documents and products in accordance with the MESA Statewide Brand Guidelines found at <http://mesa.ucop.edu/resources/>.

Campus may copy Licensed Materials, provided that such copies reproduce any and all copyright notices and service mark registration notices and acknowledge the MESA Statewide Office as the source. Campus shall not reproduce or distribute any copies of Licensed Materials outside of its own campus.

C. Materials Created by Campus arising out of MESA program; Licenses and Responsibilities:

Campus shall permit The Regents, the MESA Statewide Office and any MESA member to use, reproduce, and distribute, without payment, any publishable material created by Campus arising out of Campus' MESA program, including copyrighted material. Such reproduction shall acknowledge Campus as source.

D. Use of Name:

Except as set forth in this Agreement, Non-UC Campus shall not use the name of The Regents of the University of California, or any of The Regents' employees, any abbreviation of the UC name, trade names and/or trademarks (i.e., logos and seals) or any derivation thereof, in any form or manner in advertisements, reports, or other information released to the public, or place the UC name, abbreviations, trade names and/or trademarks or any derivation thereof on any consumer goods, products or services for sale or distribution to the public, without The Regents' prior written approval. Non-UC Campus agrees to comply at all times with California Education Code Section 92000.

XI. YOUTH PROTECTION

If there is contact with children (persons under 18 years of age) in the performance of work under this Agreement, Campus must have appropriate policies, training, and employment practices in place to comply with the California Child Abuse and Neglect Reporting Act (CANRA), and shall require the same of any of its contractors and subcontractors who may have contact with children.

XII. PROGRESS REPORTS

Campus shall submit all deliverables as listed in the Deliverables Schedule, and the Special Projects Deliverables Schedule (if applicable) ¹.

XIII. TERMINATION

This Agreement may be terminated by The Regents if Campus does not obtain prior approval of a decision that significantly impacts MESA College Prep Program Campus operations, as required in Section III hereunder, or without cause by either party, upon 30 days prior written notice to the other party. Campus shall take all necessary measures to mitigate its costs and shall return to The Regents all unliquidated advance payments.

XIV. AMENDMENTS

Requests for No Cost Time Extensions, Carry-Forwards, Rebudgeting and changes in Principal Investigator and Center Director may be approved by the MESA Statewide Deputy Director upon request by Campus as described in Articles I, IV, and V. All other amendments or modifications to this Agreement shall require execution on behalf of The Regents by the Chief Procurement Officer or his designee (for non-UC Campuses) or the UCOP C&G Analyst (for UC Campuses), and shall be by the mutual written consent of the parties.

XV. INSURANCE

Non-UC Campus, at its sole cost and expense, shall insure its activities in connection with this Agreement and obtain, keep in force and maintain insurance as follows:

1. Commercial Form General Liability Insurance (contractual liability included) with limits as follows:

(a)	Each Occurrence	\$1,000,000
(b)	Products/Completed Operations Aggregate	\$3,000,000
(c)	Personal and Advertising Injury	\$1,000,000
(d)	General Aggregate	\$3,000,000

If the above insurance is written on a claims-made form, it shall continue for three (3) years following termination of this Agreement. The insurance shall have a retroactive date of placement prior to or coinciding with the effective date of this Agreement.

2. Business Automobile Liability Insurance for owned, scheduled, non-owned, or hired automobiles with a combined single limit no less than one million dollars (\$1,000,000) per occurrence if using automobiles in conducting research under this Agreement. (Required only if Campus drives on UC premises or transports employees, officers, invitees or agents of The Regents relating to performance under this Agreement.)
3. Workers' Compensation as required under California State law and employer's liability with limits of one million dollars (\$1,000,000).
4. Commercial Blanket Bond with a limit not less than the amount of grant funds provided by this Agreement in Campus' possession at any one time covering all employees of Campus, including coverage to protect money and securities as found in a Comprehensive Crime Policy.
5. Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of The Regents and Campus against other insurable risks relating to performance of this Agreement.

The coverages required under this Article shall not in any way limit Campus' liability. The coverage referred to under (1) and (2) of this Article shall name "The Regents of the University of California" as Additionally Insured. Such a provision, however, shall apply only in proportion to and to the extent of the negligent acts or omissions of Campus, its officers, employees, and agents. Campus will provide The Regents with not less than fifteen (15) days advance written notice of any modification, change or cancellation of any of the above insurance coverages, and will promptly obtain replacement coverage that complies with this provision. Upon the execution of this Agreement, Campus will furnish The Regents with Certificates of Insurance (and the relevant endorsement pages) evidencing Campus' insurance coverage and Additional Insured Endorsements demonstrating that The Regents is an additional insured on the applicable policies. Certificate of Insurance must be received by The Regents before payment can be made.

XVI. INDEMNIFICATION

Non-UC Campus shall defend, indemnify, and hold The Regents, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including, without limitation, reasonable attorney's fees), damages, and liabilities of any kind resulting from or arising out of the performance of this Agreement, including Non-UC Campus' performance hereunder, provided such losses, expenses, damages and liabilities are due or claimed to be due to the acts or omissions of Non-UC Campus, its officers, employees, agents, subcontractors, or anyone directly or indirectly employed by them, or any person or persons under Non-UC Campus' direction and control, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of Campus, its officers, agents, or employees.

The Regents shall defend, indemnify, and hold Non-UC Campus, its officers, employees, and agents harmless from and against any and all liability, loss, expense (including, without limitation, reasonable attorney's fees), damages, and liabilities of any kind resulting from or arising out of the performance of this Agreement, including The Regents' performance hereunder, provided such losses, expenses, damages and liabilities are due or claimed to be due to the acts or omissions of The Regents, its officers, employees, agents, subcontractors, or anyone directly or indirectly employed by The Regents, or any person or persons under The Regents' direction and control, but only in proportion to and to the extent such liability, loss, expense, attorney's fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of The Regents, its officers, agents, or employees.

XVII. AFFIRMATIVE ACTION/NON-DISCRIMINATION

Campus will abide by the requirements set forth in Executive Orders 11246 and 11375. Where applicable, Campus will abide by 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a), incorporated by reference with this statement: **"This contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability."** With respect to activities occurring in the State of California, Campus agrees to adhere to the California Fair Employment and Housing Act. Campus will provide the MESA Statewide Office on request a breakdown of its labor force by groups as specified by the MESA Statewide Office, and will discuss with the MESA Statewide Office its policies and practices relating to its affirmative action programs. Campus will not maintain or provide facilities for employees at any establishment under its control that are segregated on a basis prohibited by federal law. Separate or single-user restrooms and necessary dressing or sleeping areas must be provided, however, to ensure privacy.

XVIII. INDEPENDENT CONTRACTOR

Non-UC Campus and its employees, consultants, agents, or independent contractors will perform all services under this Agreement as independent contractors. Nothing in this Agreement will a) create any association, partnership, joint venture or agency relationship between The Regents and Non-UC Campus, or b) create an employer-employee or principal-agent relationship between The Regents and Non-UC Campus' employees, consultants, agents, or independent contractors. Non-UC Campus and its employees, consultants, agents and lower tier subawardees will not, by virtue of any services provided under this Agreement, be entitled to participate, as an employee or otherwise, in or under any employee benefit plan of The Regents or any employment right or benefit available to or enjoyed by employees of The Regents.

XIX. REGENTS' CONTACT INFORMATION

Program Matters:

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Fiscal Matters:

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ⁱThe MESA Budget Change form, deliverables schedules, and General Terms & Conditions can be retrieved from: <http://mesa.ucop.edu/resources/>