

# WALNUT CREEK SCHOOL DISTRICT



## REQUEST FOR QUALIFICATIONS FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR VARIOUS PROJECTS / MASTER CONTRACT

Qualifications Deadline Date

**September 14th, 2022 at 3:00PM**

**Submit to:**

**Walnut Creek School District  
960 Ygnacio Valley Rd.  
Walnut Creek, CA 94596  
Attn: Ruben Fernandez**

## TABLE OF CONTENTS

	<u>Page</u>
PURPOSE OF THE RFQ:	1
RFQ TIMELINE:	1
QUESTIONS AND CLARIFICATION OF THE RFQ	1
CONTENTS OF THE SOQ	1
PREPARATION AND SUBMITTAL OF THE SOQ	6
SOQ EVALUATION, AWARD AND AGREEMENT	9
GENERAL TERMS AND CONDITIONS	10
(Attached)ATTACHMENT 2 – CONSULTANT QUESTIONNAIRE	12
ATTACHMENT 3 – FEE SCHEDULE AND REIMBURSABLE EXPENSES	18
ATTACHMENT 4 – EQUAL OPPORTUNITY CERTIFICATION	20
ATTACHMENT 5 – CONSULTANT'S CERTIFICATE REGARDING WORKERS' COMPENSATION	21
<b><u>PURPOSE OF THE RFQ:</u></b>	

By way of this Request for Qualifications (“RFQ”), the Walnut Creek School District (“District”) seeks Statements of Qualifications (“SOQ”) from Architecture Firms (“Consultant”) to provide architectural and engineering services for various upcoming projects within the District, including, for example and without limitation, modernization of existing facilities, to focus on modernization of elementary schools to bring them up to standard with recently modernized middle schools (“Projects”) at it’s 6 campuses (each, a “Site”). The purpose of this RFQ is to obtain information that will enable the District to select a Consultant(s) that can assist the District in connection with architectural design, engineering, construction administration and related work associated with the Projects. Each Consultant responding to this RFQ should be prepared and equipped to provide full service to the District in an expeditious and timely manner so as to enable the District to meet critical time deadlines and schedules. All qualified architectural firms, including local firms, are encouraged to submit a SOQ.

### **RFQ TIMELINE:**

Request for Qualifications Issued	September 6, 2022
Deadline for Submittal of Questions	September 9, 2022

**TABLE OF CONTENTS**  
**(Continued)**

Page

Responses to the Questions Submitted	September 12, 2022
Due Date for Submittal of Qualifications	September 14, 2022 3pm
Anticipated Technical Interview	September 22, 2022
Anticipated Technical Interview Round 2 (if needed)	September 29, 2022
Anticipated Board Approval Date	October 3, 2022
Notification of Selected Consultant	October 7, 2022

**QUESTIONS AND CLARIFICATION OF THE RFQ**

Questions and requests for explanation or clarifications of any kind in regard to this RFQ shall be made in written form and submitted via email to Ruben Fernandez, at [facilities@walnutcreeksd.org](mailto:facilities@walnutcreeksd.org), by no later than 3:00 p.m., September 14, 2022.

**CONTENTS OF THE SOQ**

Consultants must submit one original, two hard copies, and a digital copy (upload to Dropbox Folder) of the SOQ. All SOQs should address the following items in the order listed below. The SOQ shall demonstrate the qualifications, competence, and capacity of the Consultant:

1. **Cover Letter/Letter of Interest** - Include a cover letter, addressed to Ruben Fernandez, Director of Innovation & Technology, stating the eligibility of the Consultant to respond to this RFQ, a brief description of the Consultant and statement of interest.
2. **Table of Contents** - The Table of Contents shall reflect the order stated herein and shall include section titles and page numbers.
3. **Consultant's Data "Attachment 2"** - Each Consultant must completely answer the questions in Attachment 2 of the RFQ. Note: **Questions may be answered in other sections of the SOQ if clearly and conspicuously identified and referenced on the questionnaire.** The following shall be stated:
  - a. **Description of Consultant** - Include a description of qualifications for providing design services on California school construction projects. Include information regarding the size of Consultant's company, location of the office from which the required services would be performed, nature of work performed, and years in this particular business. The Consultant shall provide an affirmative statement that it is independent of the District as defined by generally accepted standards.
  - b. **Consultant's Personnel and Staffing Resources** – Consultant shall submit with its SOQ, resume(s) or profiles for each key staff who will be proposed to provide the requested services, including their qualifications

**TABLE OF CONTENTS**  
**(Continued)**

Page

and recent relevant experience providing similar services. Each resume shall include, but not be limited to, the following information: (a) Education; (b) Years of relevant experience; (c) Professional registrations, certifications and affiliations (d) project-specific experience with focus on public projects and emphasis on K-12 projects providing architectural and engineering services, including dates and durations of each project listed and the name of the firm where employed. Consultant shall include an affirmative statement that the Consultant and all assigned key professional staff are currently licensed to perform the services and hold all proper business or other required licenses. Given your current and planned workload, describe whether you have the capacity to handle the Projects in an expedient manner to meet scheduled deadlines,

Identify any proposed subconsultants and any other relevant disciplines. List professional license numbers and dates as well as business address, telephone number and fax number for such subconsultants. Disciplines that might be included are civil, structural, mechanical, plumbing, and electrical engineers and landscape architects. Include brief resumes and related experience for appropriate members of these firms. Explain the subconsultant's technical capabilities in quality control and assurance procedures, including coordination of design disciplines, complying with program requirements and conformance with Federal/State/Local applicable code requirements.

c. **Capacity & Methodology** - Describe how the Consultant will provide services and fulfill the requirements and expectations of the District and this RFQ. Use this section to address the ability of Consultant to undertake and accomplish the required scope of services while meeting any deadlines; the Consultant's record of meeting schedules and deadlines of other clients; advantages over other firms in the same industry; strength and stability as a business concern; and supportive client references. Describe the Consultant's ability to provide architectural and engineering services exclusively and in a timely manner for the District and the Consultant's commitment to providing personnel assigned to District's Projects. Information should be furnished for both the respondent and any subconsultants included in the SOQ.

d. **Experience** - Description of past performance and related experience. Each Consultant is required to submit a list of its most relevant consulting services provided in the past five (5) years that are of the approximate size of services described in the Scope of Services identified in the sample Architectural Services Agreement, attached hereto as Attachment 1. The list shall include: (1) the size of the project, (2) scope of the work, (3) dates services were performed, (4) number of hours of service

**TABLE OF CONTENTS**  
**(Continued)**

Page

for the project, (5) DSA close-out/certification status of the project, (6) client's name and address, and (7) client contact name and phone number.

If applicable, specify the architectural and engineering services the Consultant has provided for the District previously. State the name and scope of each project, and the beginning and ending dates of services.

e. **Financial Information** - Furnish, as an appendix, financial information (such as last year-end Income Statement and Balance Sheet) that accurately describes the financial stability of the Consultant. (If financial statements are provided, their disclosure will be confined to those individuals involved in the evaluation of the responses and award of ensuing contracts.)

f. **Change Order Data** - Provide change order data for school construction projects performed in the last five (5) years, including projects listed under Projects Specific Experience (Item 3, Section d). Include original estimates of project costs and a brief explanation of the change orders. List the purpose of the change order and by whom and why it was requested.

g. **Customer Service Commitment** - Describe Consultant's philosophy and approach for providing outstanding customer service.

h. **Local Business Participation** - Describe the Consultant's plan for inclusion of local businesses in the services to be provided for the District. A locally-owned business, for purposes of satisfying the locality requirements of this provision, is one which holds a valid business license issued by the County or the City where the District maintains an office.

i. **Litigation** - Furnish and provide specific information on any termination for default, litigation settled, or judgments entered within the last five (5) years, and civil judgments or criminal convictions for false claims within the last five (5) years. Identify if the Consultant or any employee of the Consultant is a party to an existing dispute with an owner, owner's consultants or contractors, related to any project for which the Consultant provided architectural and engineering services. If so, please describe the nature of the dispute and its anticipated outcome.

Identify if the Consultant has ever filed a petition for bankruptcy. If so, please provide the date the petition was filed and identify the jurisdiction in which it was filed.

j. **Additional Information** - Consultants are encouraged to provide additional information or a description of resources the Consultant feels is pertinent to the RFQ. Consultants are cautioned, however, that this does

**TABLE OF CONTENTS**  
**(Continued)**

Page

not constitute an invitation to submit large amounts of extraneous material; appendices should be relevant and brief.

4. **Billing Rates and Reimbursable Expenses "Attachment 3"** - Provide billing rates for all personnel and/or categories of employees as well as any overhead or other special charges. If applicable, Consultant's SOQ should include estimates for certain standardized components of the architectural and/or engineering services process. Provide Consultant's typical fee schedule as applicable as well as any sub-consultant fees or services that may be needed.

Provide the proposed billing rate for each proposed discipline and employee. Consultant's proposed fee should include and account for all direct labor costs, fringe benefits, insurance, overhead, profit and all other expenses the Consultant will incur in providing architectural and/or engineering services. Provide any planned escalation rate for future years if already determined. All other services not included herein shall be negotiable as required.

All proposed reimbursable expenses shall be directly related to the services required for the Projects and must be supported by proper documentation and prior District authorization. Reimbursement shall not exceed cost plus five percent (5%).

**Note:** The District does not reimburse travel expenses to and from District offices and/or Projects sites.

**Note:** Additional service fees shall be negotiated with the selected firm on a lump sum basis.

5. **Insurance Requirements** – Consultants must have the ability to secure insurance coverage and provide Proof of Certificate of Insurance, as described below:

Comprehensive general and auto liability insurance with limits of not less than one million dollars (\$1,000,000) combined single limit, bodily injury and property damage liability per occurrence, including:

- Owned, non-owned and hired vehicles;
- Blanket contractual;
- Broad form property damage;

**TABLE OF CONTENTS**  
**(Continued)**

Page

- Products/completed operations; and
- Personal injury;

Professional liability insurance, including contractual liability, with limits of \$2,000,000 per claim;

Workers' Compensation Insurance shall be maintained, in accordance with provisions of the California Labor Code, adequate to protect any person, firm, or corporation employed directly or indirectly in connection with the work of the Consultant from claims under Workers' Compensation Acts which may arise for operations, whether such operations be by any person, firm, or corporation, employed directly or indirectly by the Consultant upon or in connection with the work.

6. **Equal Employment Opportunity (EEO) Certification "Attachment 4"** – Each responding firm must certify that compliance with the federal EEO requirements is met.
7. **Worker's Compensation Insurance Certification "Attachment 5"** – Complete and sign the Worker's Compensation Insurance Certification form. Consultants shall describe the outcome of design and construction-related claims, if any, filed against the firm's general liability or professional liability or automobile liability insurance carriers during the most recent five (5) years. Proof of Insurance for General Liability, Professional Liability, Public Liability and Auto Liability or a statement of liability shall be required from the successful firm according to the terms of this RFQ.

At a minimum, the following documents will be required of the selected Consultant(s):

- Proof of DOJ Fingerprinting clearance
- W-9 Form (IRS Form 1099)

**PREPARATION AND SUBMITTAL OF THE SOQ**

**SOQ Submittal and Deadline**

One original, two hard copies and a digital copy via provided Dropbox Folder of the SOQ must be submitted under sealed cover by no later **than 3:00 p.m. on September 14, 2022**. Label the outside of the sealed SOQ envelope or box with your company name, SOQ title and RFQ deadline.

**TABLE OF CONTENTS**  
**(Continued)**

Page

SOQs shall be delivered to the attention of:

Walnut Creek School District  
960 Ygnacio Valley Rd.  
Walnut Creek, CA 94596  
Attn: Ruben Fernandez

It is the sole responsibility of the Consultant submitting a response to this RFQ to ensure that its RFQ and any amendments are actually received by the District prior to the deadline time and due date. Unless this RFQ is extended by a written amendment, SOQs received after the time on the due date will not be considered. Faxed or emailed SOQs will not be accepted.

**SOQ Completeness**

SOQs shall be completed in all respects as required by the instructions herein. A SOQ may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. A SOQ will be rejected if, in the opinion of the District, the information contained therein was intended to mislead the District in the evaluation of the SOQ.

**District Not Responsible For Preparation Costs**

All costs incurred in the preparation, submission and/or presentation of Consultant's responding to the RFQ including, but not limited to, the Consultant's travel expenses to attend any pre-conferences, oral presentations, long distance charges, and negotiation sessions, shall be the sole responsibility of the firm and will not be reimbursed by District.

District shall not pay for any costs incurred for SOQ or contract preparation as a result of termination of this RFQ or termination of the contract resulting from this RFQ.

**Right to Use Ideas**

All SOQs and other materials submitted become the property of the District. District reserves the right to use any ideas presented in any response to the RFQ. Selection or rejection of the SOQ shall not affect this right.

**Modification or Withdrawal Of RFQ**

Consultant may modify or withdraw a SOQ after submission by written request of withdrawal and resubmission, provided that the SOQ withdrawal is prior to the due date deadline specified.

**Amendments**

Consultants are advised that the District reserves the right to amend this RFQ at any time. Amendments will be done formally by providing written amendments to all potential Consultants known to have received a copy of the RFQ.



**TABLE OF CONTENTS**  
**(Continued)**

Page

**Equal Opportunity**

The Consultant shall certify that it is an Equal Opportunity Employer and has made a good faith effort to improve minority employment and agrees to meet federal and state guidelines. Legal residents of the United States of America shall be used in providing all services under this RFQ.

Consultant shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, Union Elementary membership, in the performance of the work including but not limited to, preparation, manufacturing, fabrication, installation, erection and delivery of all supplies and equipment. In the event of receipt of such evidence of such discrimination by the firm or its agents, employees or representatives, District shall have the right to rescind and terminate the Contract.

The successful Consultant agrees to include the paragraph above with appropriate adjustments in all subcontracts, which are entered into for work to be performed pursuant to the Contract.

Complete the Equal Opportunity Certification form, attached herein as Attachment No. 4, and return with the SOQ.

**Waiver or Breach Thereof**

No term or provision of this RFQ shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by an individual authorized to so waive or consent. Any consent by either party to, or waiver of, a breach by the other, whether express or implied, shall not constitute a consent to, waiver of, or excuse for, any other breach or subsequent breach, except as may be expressly provided in the waiver or consent.

**Covenant against Gratuities**

The Consultant warrants that no gratuities (in the form of entertainment, gifts, or otherwise) were offered or given by the firm or any agent or representative of the firm, to any officer or employee or consultant of the District with a view toward securing the resultant contract or securing favorable treatment with respect to any determinations concerning the award of the Agreement. For breach or violation of this provision, the District shall have the right to terminate any negotiation or the resultant contract, either in whole or in part, and any loss or damage sustained by the District in procuring on the open market any items which the firm agreed to supply shall be borne and paid for by the firm. The rights and remedies of the District provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law.

**Indemnification and Insurance**

The Consultant, at its own expense and without exception, shall indemnify, defend and pay all damages, costs, expenses, including attorney fees, and otherwise hold harmless the District, its employees and representatives, from any liability of any nature or kind

**TABLE OF CONTENTS**  
**(Continued)**

Page

arising out of, pertaining to, or related to the negligence, recklessness, or willful misconduct of the design professional in regard to the delivery of the services required under this RFQ. Further, the successful Consultant(s) will be required to provide to the District evidence and the amount of Errors and Omissions Insurance i.e. Professional Liability Insurance currently in effect. Limits for Errors and Omissions Insurance are \$1,000,000 for each occurrence and \$2,000,000 aggregate and the District will be named as additional insured.

**Conflict of Interest**

The Consultant is in agreement that it presently has no interest and will not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The firm further agrees that no person having any such known interest or conveyed an interest shall be employed, directly or indirectly, in the delivery of services under this RFQ.

**Independent Contractor**

The Consultant represents itself as an independent contractor offering such services to the general public and shall not represent himself/herself or his/her employees to be an employee of the District. Therefore, the Consultant shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, and other expenses.

**Precedence of Documents**

The contract between the District and the successful firm(s) shall consist of (1) this RFQ and any amendments thereto, (2) the SOQ submitted by the Consultant to the District in response to the RFQ, and (3) the firm agreement included herein to be executed with the successful Consultant(s). In the event of a conflict in language between the documents referenced above, the provisions and requirements set forth and/or referenced in the agreement shall govern. However, the District reserves the right to clarify any contractual relationship in writing with the concurrence of the Consultant, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFQ or the firm's SOQ. In all other matters not affected by the written clarification, if any, the RFQ shall govern.

**Compliance with Laws**

In connection with the furnishing of services or performance of work under this RFQ, the firm agrees to comply with the Fair Labor Standards Act, Equal Opportunity Employment Act, and all other applicable Federal and State laws, regulations and executive orders to the extent that the same may be applicable.

**SOQ EVALUATION, AWARD AND AGREEMENT**

**SOQ Evaluation:**

A District SOQ Evaluation Committee will determine which, if any, SOQ is in the District's overall best interest to accept. During the evaluation process, the District may request

**TABLE OF CONTENTS**  
**(Continued)**

Page

additional information, clarifications, explanations and answers from any proposing Consultant. The District may request any or all proposing Consultants to participate in a presentation and/or interview in regards to their SOQ. Invited firms may be required to set up and conduct a tour of its most representative work for the Evaluation Committee to review. The invited Consultants must be able to be available for the presentation and/or interview within two (2) days of the request, unless another date has been agreed upon.

The District reserves the right to conduct negotiations with any number of proposing Consultants, as determined by the District, for entering into contract agreements.

**Evaluation Criteria:**

The evaluation of SOQs will include, but not be limited to, the following criteria:

1. **SOQ Packet** - Completeness and clarity of SOQ content.
2. **Firm Qualifications, Experience & References** - Company size, years in business, licenses and certifications, etc. Experience and expertise of the firm in providing school construction projects of comparable size and scope, especially a K-12 school district.
3. **Firm's Personnel and Staffing Resources** - Professional qualifications and specialized experience of the proposed staff including the quality of the Consultants professional personnel to be assigned to District Projects; the quality of the Consultants management support personnel to be available for technical consultation and/or assistance; and the Firm's plan for recruiting and utilizing local businesses.
4. **Capacity & Methodology** - Current capacity and likelihood of the firm to successfully meet the needs of the District and fulfill the requirements of each Agreement issued within the timelines given.
5. **Experience and References** – Experience and expertise of the firm in providing similar services to other public entities of comparable size and scope, especially a California public school district.
6. **Financial Stability. Local Businesses Participation and Customer Service** – The solvency of the responding Consultants, involvement and integration of the local businesses in the overall services, willingness and availability of the firm to assist the District in the assessment, evaluation, administration, procedures, presentations and reporting regarding any assignment related to the District Projects.
7. **Fee Schedule** – Rate schedules as outlined in Attachment 3.

**TABLE OF CONTENTS**  
**(Continued)**

Page

**GENERAL TERMS AND CONDITIONS**

**District Obligation**

Receipt of SOQs in response to this RFQ does not obligate the District in any way. The District reserves the right to accept or reject any or all SOQs, to waive any irregularities or informalities in any SOQ or in the RFQ process.

**Award of Contract**

This RFQ implies no obligation to award contracts to any Consultant. If it is in the best interest of the District, the District retains the sole and absolute right to select the Consultant that best meets the District's requirements. The award is subject to acceptance by the Governing Board of the Walnut Creek School District. The Consultant that is awarded a contract pursuant to this RFQ shall be required to enter into a standard Architectural Services Agreement prepared by the District that is substantially and materially similar to the Architectural Services Agreement attached hereto as Attachment 1.

**Approval to Start Work**

The successful Consultant may perform work once an Architectural Services Agreement has been fully executed and approved by both parties and all appropriate documentation has been received and approved by the District, and a purchase order has been issued. The District shall not be responsible for work done, even in good faith, prior to approval of the Architectural Services Agreement and purchase order issuance by the District.

**Ownership of Documents**

All SOQs and materials submitted in response to this RFQ shall become the property of the District and shall be considered a part of Public Records, unless exempted by law. In addition, all designs, drawings, specifications, notes and other work developed in the performance of any services resulting from this RFQ shall be the sole property of District and may be used by District for any purposes without additional compensation to the selected Consultants. Selected Consultant agrees not to assert any rights or to establish any claim under the design patent or copyright laws.

**Joint Ventures**

Where two or more firms desire to submit a single response to this RFQ, they should do so on a prime-subcontractor basis rather than as a joint venture or informal team. The District intends to contract with a single firm and not with multiple firms doing business as a joint venture.

**Firm's Power and Authority**

The Consultant warrants that it has full power and authority to grant the rights herein granted and will hold the District hereunder harmless from and against any loss, cost, liability, and expense (including reasonable attorney fees) arising out of any breach of this warranty. Further, firm declares that it will not enter into any arrangement with any third party, which might abridge any rights of the District under this contract.

**TABLE OF CONTENTS**  
**(Continued)**

Page

**Disputes**

If a dispute arises among the parties hereto, the parties agree first to try in good faith to settle the dispute among them via agreement and thereafter by mediation under the American Arbitration Association's Commercial Mediation Rules before resorting to litigation. All parties shall share the costs of any mediation proceedings equally.

**Fingerprinting**

Per the provisions of the Education Code Section 45125.1, the District has a zero tolerance for all Consultants having any contact with students without having first obtained clearance from the State Department of Justice. All assigned Consultant personnel shall comply with the fingerprinting clearance law prior to providing services at any District sites.

**TABLE OF CONTENTS**  
**(Continued)**

Page

**ATTACHMENT 1 – SAMPLE AGREEMENT**

**(Attached)**

# MASTER ARCHITECTURAL SERVICES AGREEMENT

This AGREEMENT is made and entered into this \_\_\_\_ day of \_\_\_\_\_ in the year 2022 by and between the WALNUT CREEK SCHOOL DISTRICT, hereinafter referred to as “DISTRICT,” and \_\_\_\_\_, hereinafter referred to as “ARCHITECT.” This AGREEMENT shall include all terms and conditions set forth herein. The DISTRICT and the ARCHITECT are sometimes referred to herein individually as a “PARTY” and collectively as the “PARTIES.” This AGREEMENT is made with reference to the following facts:

**WHEREAS**, DISTRICT desires to obtain architectural services for various projects, hereinafter referred to as the “PROJECTS,” as indicated by a Project Authorization, from time to time; and

**WHEREAS**, ARCHITECT understands that state funding for the PROJECTS is a condition precedent to the effectiveness of this AGREEMENT. If state funding is not received for the PROJECTS, this AGREEMENT may be voided by the DISTRICT except to the extent services have been rendered pursuant to the approval of the DISTRICT’s Board; and

**WHEREAS**, ARCHITECT is fully licensed to provide architectural services in conformity with the laws of the State of California;

**NOW, THEREFORE**, the PARTIES hereto agree as follows:

## **ARTICLE I - MASTER AGREEMENT**

1. The terms and conditions herein, inclusive of the entirety of this Agreement, shall apply only to each individual PROJECT assigned to the ARCHITECT by the DISTRICT, and accepted by the ARCHITECT. Each such assignment shall be operative only upon the issuance by the DISTRICT, acceptance by the ARCHITECT, and ratification by the DISTRICT’s Board, of a PROJECT ASSIGNMENT for a given PROJECT in substantially the form attached hereto as Attachment “A.”

2. Upon the issuance by the DISTRICT, acceptance by the ARCHITECT, and ratification by the DISTRICT’s Board, of a PROJECT ASSIGNMENT, ARCHITECT and DISTRICT shall undertake their respective obligations as described herein in relation to that PROJECT, in accordance with the particulars of the given PROJECT ASSIGNMENT.

## **ARTICLE II - ARCHITECT’S SERVICES**

1. The ARCHITECT’s services shall consist of those services performed by the ARCHITECT, ARCHITECT’s employees and ARCHITECT’s consultants, as enumerated in Articles II and III of this AGREEMENT.

2. The ARCHITECT’s services shall be performed in a manner which is consistent with professional skill and care and the orderly progress of the work. The ARCHITECT represents that it will follow the standards of its profession in performing all services under this

AGREEMENT. The ARCHITECT shall submit for the DISTRICT's approval a schedule for the performance of the ARCHITECT's services. The schedule may be adjusted as the PROJECTS proceeds by mutual written agreement of the PARTIES and shall include allowances for time required for the DISTRICT's review and for approval by authorities having jurisdiction over the PROJECTS. The time limits established by this schedule shall not, except for reasonable cause, be exceeded by the ARCHITECT.

3. The schematic design, design development and construction document services covered by this AGREEMENT shall be completed and submitted to the DISTRICT on or before a date to be agreed upon in writing by the DISTRICT. The construction document services covered by this AGREEMENT shall be completed and submitted to the Division of the State Architect ("DSA") for review and approval on or before a date to be agreed upon in writing by the DISTRICT.

4. If the PROJECTS includes the replacement or repair of more than 25% of a roof or the replacement or repair of a roof that has a total cost of more than \$21,000, the ARCHITECT shall comply with the requirements set forth in Public Contract Code section 3000, et seq., including signing the required certification.

5. The ARCHITECT has been selected based on ARCHITECT's knowledge of California public schools and ARCHITECT's knowledge of the educational system for funding and construction and is thoroughly familiar with the requirements of the OPSC for state funding, DSA for approvals of plans and specifications, and of the CDE for site approvals and educational requirements that are applicable to a public-school project.

6. The ARCHITECT shall coordinate its services with the Contractor, Project Inspector, its consultants and other parties to ensure that all requirements under DSA's Inspection Card (Form 152) and any subsequent revisions, supplements or updates thereto issued or required by DSA, or any other/alternate processes are being met in compliance with DSA requirements and in compliance with the PROJECTS schedule. The ARCHITECT and its consultants shall take all action necessary as to not delay progress in meeting any DSA requirements. The ARCHITECT shall meet all requirements set forth in DSA's Construction Oversight Process Procedure (PR 13-01) and any subsequent revisions, supplements or updates thereto issued or required by DSA. Any references to the DSA requirements, DSA forms, documents, manuals applicable to the PROJECTS shall be deemed to include and incorporate any revisions or updates thereto.

7. The ARCHITECT shall provide to the DISTRICT, on the terms herein set forth, all of the architectural, design and/or engineering services necessary to complete the PROJECTS. The ARCHITECT's services shall include those described in this AGREEMENT, and include all structural, civil, mechanical and electrical engineering and landscape architecture services and any other services necessary to produce a reasonably complete and accurate set of "Construction Documents" defined as including, but not limited to, the following: The contract between the DISTRICT and the "Contractor" awarded the PROJECTS (the "Contract"), general and supplementary conditions of the Contract between the DISTRICT and Contractor, drawings, specifications, Addenda, Revisions and other documents listed in the Contract, and modifications issued after execution of the Contract between the DISTRICT and Contractor.



8. The ARCHITECT shall assist the DISTRICT in obtaining required approvals from governmental agencies (for both on and off-site approvals) and any other entities including, but not limited to, those responsible for electrical, gas, water, sanitary or storm sewer, telephone, cable/TV, antenna-based services, internet providers, public utilities, the fire department, as well as the County Health Department, California Department of Education (“CDE”), the Office of Public School Construction (“OPSC”), State Water Resources Control Board (SWRCB), and DSA. If necessary, the ARCHITECT shall secure preliminary agency approvals and notify the DISTRICT in writing as to the actions the DISTRICT must take to secure formal approvals.

9. The ARCHITECT shall be responsible for determining the capacity of existing utilities, and/or for any design or documentation required to make points of connection to existing utility services that may be located on or off the PROJECTS site and which are required for the PROJECTS.

10. The ARCHITECT shall provide a PROJECTS description which includes the DISTRICT’s needs, Program, and the requirements of the PROJECTS prior to preparing preliminary designs for the PROJECTS.

11. The ARCHITECT shall assist the DISTRICT in determining the phasing of the PROJECTS that will most efficiently and timely complete the PROJECTS. This includes phasing the PROJECTS’s construction and the inspection approval process so Incremental Approvals as required under DSA’s Construction Oversight Process Procedure can be obtained during the completion of the PROJECTS.

12. The ARCHITECT shall provide a written preliminary evaluation of the DISTRICT’s PROJECTS, schedule, and construction budget requirements. Such evaluation shall include alternative approaches to design and construction of the PROJECTS, evaluation and application of educational specification requirements under Education Code section 17251 and under Title 5 California Code of Regulations, Section 14000, et seq.

13. The ARCHITECT shall provide planning surveys, site evaluations and comparative studies of prospective sites, buildings, or locations.

14. The ARCHITECT shall attend regular PROJECTS coordination meetings between the ARCHITECT, its consultants, the DISTRICT’s representative(s), and other consultants of the DISTRICT during PROJECTS development.

15. The ARCHITECT shall make revisions in Drawings, Specifications, the Project Manual, or other documents when such revisions are necessary due to the ARCHITECT’s failure to comply with approvals or instructions previously given by the DISTRICT, including revisions made necessary by adjustments in the DISTRICT’s Program or Budget as defined in Article IV.

16. The ARCHITECT shall provide services required due to programmatic changes in the PROJECTS including, but not limited to, size, quality, complexity, method of bidding or negotiating the contract for construction. The ARCHITECT shall be prepared to prioritize and prepare a priority list to address critical Program and PROJECTS needs as opposed to optional items that may be dropped if there is inadequate Budget for the PROJECTS. In the case where there are Budget constraints, the ARCHITECT, shall prepare a priority list of critical

programmatic needs and items that may be of lesser priority and review the Program with the DISTRICT.

17. The ARCHITECT shall provide services in connection with the work of a Construction Manager or separate consultants retained by DISTRICT.

18. The ARCHITECT shall provide detailed estimates of the PROJECTS's Construction Costs at no additional cost to DISTRICT as further described in Articles V and VI.

19. The ARCHITECT shall provide detailed quantity surveys which provide inventories of material, equipment, and labor consistent with OPSC requirements for such surveys or estimates.

20. The ARCHITECT shall provide analyses of DISTRICT ownership and operating costs for the PROJECTS.

21. The ARCHITECT shall provide interior design and other services required for, or in connection with, graphics and signage. All other interior design services are addressed under Article III as an Additional Service.

22. To the extent the ARCHITECT is not familiar or does not have experience with any materials or systems designed for the PROJECTS, the ARCHITECT shall visit suppliers, fabricators, and manufacturers' facilities, such as for carpet, stone, wood veneers, standard or custom furniture, to review the quality or status of items being produced for the PROJECTS.

23. The ARCHITECT shall cooperate and consult with DISTRICT in use and selection of manufactured items on the PROJECTS, including, but not limited to, paint, hardware, plumbing, mechanical and electrical equipment, fixtures, roofing materials, and floor coverings. All such manufactured items shall be standardized to the DISTRICT's criteria to the extent such criteria do not interfere with PROJECTS design and are in compliance with the requirements of Public Contract Code §3400.

24. The ARCHITECT shall certify to the best of its information, pursuant to 40 Code of Federal Regulations §763.99(a)(7), that no asbestos-containing material was specified as a building material in any Construction Document for the PROJECTS and will ensure that contractors provide the DISTRICT with a certification that all materials used in the construction of any school building are free from any asbestos-containing building materials ("ACBM's"). ARCHITECT shall include statements in the PROJECTS's specifications that materials containing ACBM's shall not to be included or incorporated into the PROJECTS. The ARCHITECT shall incorporate requirements into the PROJECTS's specifications that indicate the above certification shall be part of the Contractor's final PROJECTS submittal to the DISTRICT.

25. The ARCHITECT shall consider operating or maintenance costs when selecting systems for the DISTRICT. The ARCHITECT shall utilize grants and outside funding sources and work with the DISTRICT to utilize and consider funding from grants and alternative funding sources.

26. The ARCHITECT shall prepare for and make formal presentations to the Governing Board of the DISTRICT, attend public hearings and other public meetings. The ARCHITECT shall be prepared to address concept and programmatic requirements for the PROJECTS in such presentations, public hearings and public meetings. In addition, the ARCHITECT shall attend and assist in legal proceedings that arise from the errors or omissions of the ARCHITECT.

27. The duties, responsibilities and limitations of authority of the ARCHITECT shall not be restricted, modified, or extended without written agreement between the DISTRICT and ARCHITECT.

28. The ARCHITECT shall comply with all federal, state, and local laws, rules, regulations and ordinances that are applicable to the PROJECTS.

29. The ARCHITECT shall have access to the work at all times.

30. The ARCHITECT shall commit the same PROJECTS representatives from the commencement of services under this AGREEMENT through the completion of the Project Close-Out Phase. Any change in staff will require the written approval of the DISTRICT.

**31. Schematic Design Phase**

a. The ARCHITECT shall meet with the DISTRICT to understand and verify the DISTRICT's requirements for its Program. In the cases where a Program is furnished to the ARCHITECT by the DISTRICT, the ARCHITECT shall review the DISTRICT's Program and address if the Program, in the ARCHITECT's professional opinion, is realistic. If there are issues with the Program that has been provided, as part of the Schematic Design Services, ARCHITECT shall rework the Program with the DISTRICT representative and the DISTRICT to establish a priority list of programmatic needs and items that may be within and outside of the DISTRICT's Budget. Once the Schematic Design, Program and Budget are reconciled with the DISTRICT representative, and the DISTRICT approves the Schematic Design, Program and Budget, the ARCHITECT may then move on to the Design Development Phase.

b. In the cases where the DISTRICT has not established a Program, the ARCHITECT shall work with the DISTRICT to help establish a Program and Budget based on available state funding, available grants, or available funds (in the cases where no funding or grants are available). The ARCHITECT's familiarity with how projects are funded by the state or through grants shall be part of the expertise the DISTRICT is relying upon in conjunction with the ARCHITECT's experiences with similar projects and programs for the establishment of the DISTRICT's Program and PROJECTS under this AGREEMENT. The ARCHITECT shall not design for a Program or PROJECTS that exceeds the DISTRICT's Budget unless the ARCHITECT obtains the written consent of the DISTRICT and an agreement that the ARCHITECT is permitted to exceed the available Budget.

c. The ARCHITECT shall prepare, for approval by the DISTRICT, Schematic Design Documents consisting of drawings, renderings, programmatic outlines,

and other documents illustrating the scale and relationship of the PROJECTS's components. These documents shall be prepared with the understanding that Design Development and Construction Documents Phases of this AGREEMENT shall be completed in accordance with the realistic understanding of and adherence to the Schematic Design. The Schematic Design Documents shall comply with all applicable laws, statutes, ordinances, codes, rules, and regulations of the State and local governmental agencies and/or authorities having jurisdiction over the PROJECTS, including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department, which are required for the final approval of the PROJECTS's completed Construction Documents.

d. The ARCHITECT shall prepare schematic design studies and site utilization plans leading to a recommended solution together with a general description of the PROJECTS and PROJECTS's priorities for approval by the DISTRICT.

e. If directed by the DISTRICT at the time of approval of the Schematic Design Documents, the Construction Documents shall be prepared so that portions of the work of the PROJECTS may be performed under separate construction contracts, phased construction contracts, or so that the construction of certain buildings, facilities, or other portions of the PROJECTS may be deferred. Careful attention is directed to DSA requirements for phasing of projects and the likelihood that DSA or other agency approvals may expire during the phases. If there is an expiration and need to obtain additional DSA approvals for future phases, the ARCHITECT shall provide the DISTRICT with a written notification of the PROJECTS approvals that may expire due to phasing. Alternate construction schemes made by the DISTRICT subsequent to the Design Development Phase shall be provided as an Additional Service pursuant to Article III unless the alternate construction scheme arises out of the PROJECTS exceeding the estimated Budget constraint as a result of the ARCHITECT's services under this AGREEMENT.

f. The ARCHITECT shall submit a list of qualified engineers for the PROJECTS for the DISTRICT's approval in conformance with Article XII. ARCHITECT shall ensure that each engineer places his or her name, seal, and signature on all drawings and specifications prepared by said engineer.

g. The ARCHITECT shall investigate existing conditions or facilities and verify drawings of such conditions or facilities.

h. The ARCHITECT shall perform Schematic Design services to keep the PROJECTS within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

i. The ARCHITECT shall prepare and submit to the DISTRICT a written estimate of the Construction Cost in conformance with Articles V and VI and shall advise the DISTRICT, in writing, of any adjustments to the estimate of Construction Cost.

**32. Design Development Phase (Preliminary Plans)**

a. Upon approval by the DISTRICT of the Schematic Design services set forth above, the ARCHITECT shall prepare Design Development Documents based on the Schematic Design and based on the Program that has been approved by the DISTRICT. Such documents shall consist of site and floor plans, elevations, cross-sections, and other documents necessary to depict the design of the PROJECTS, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECTS as to the Program requirements, landscapes, architecture, civil, structural, mechanical, and electrical systems, materials, and such other essentials as may be appropriate. The ARCHITECT shall prepare the Design Development Documents to comply with the requirements of all governmental agencies having jurisdiction over the PROJECTS including, but not limited to, the OPSC, the CDE, DSA, the County Health Department and the local fire marshal/department.

b. The ARCHITECT shall prepare and submit to the DISTRICT a written estimate of the Construction Cost in conformance with Articles V and VI and shall advise the DISTRICT, in writing, of any adjustments to the estimate of Construction Cost.

c. The ARCHITECT shall perform all Design Development Services to keep the PROJECTS within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

### **33. Construction Document Phase (Final Plans)**

a. The ARCHITECT shall prepare, from the Design Development Documents approved by the DISTRICT, Construction Documents (in an acceptable Building Informational Modeling format, such as Autodesk® Revit® and AutoCAD® Civil 3D®) including, but not limited to, all drawings and specifications for the PROJECTS setting forth, in detail, the requirements for the construction of the entire PROJECTS in conformity with all applicable (on and off site) governmental and code requirements including, but not limited to, the requirements of the OPSC, DSA, the local fire marshal/department, the County Health Department and any other governmental agency having jurisdiction over the PROJECTS. The Construction Documents shall show all the work to be done in a minimum of LOD 200, as well as the materials, workmanship, finishes, and equipment required for the completion of the PROJECTS. All Construction Documents prepared by the ARCHITECT shall be properly coordinated including, but not limited to, the various disciplines, dimensions, terminology, details, etc.

b. The ARCHITECT shall prepare and file all documents required for, and obtain the required approvals of, all governmental agencies having jurisdiction over the PROJECTS including, but not limited to, the OPSC, CDE, DSA, local fire marshal/department, City Design Review, County Health Department, Department of Public Works, and any other governmental agencies or authorities which have jurisdiction over the PROJECTS. The DISTRICT shall pay all fees required by such governmental agencies and/or authorities. ARCHITECT shall, whenever feasible, establish beforehand the exact costs due any governmental agencies and/or authorities in order to submit such cost information to the DISTRICT so payments can be prepared by the DISTRICT.

c. The ARCHITECT shall identify all tests and special inspections on the Statement of Structural Tests and Special Inspections (Form DSA 103) that are required for the completion of the PROJECTS as designed and submit such DSA 103 to DSA for approval along with all other Construction Documents. Upon DSA's approval of the Construction Documents, including the approved DSA 103 for the PROJECTS, the ARCHITECT shall ensure that a copy of the approved DSA 103 for the PROJECTS is provided to the DISTRICT, the Laboratory of Record, each Special Inspector working on the PROJECTS, the Project Inspector and the Contractor.

d. When the ARCHITECT is preparing the Construction Documents, the ARCHITECT shall include provisions that require the Contractor to:

(1) Provide the DISTRICT with five (5) complete sets of operation manuals;

(2) Provide adequate training and consultation to DISTRICT personnel in the operation, testing, start-up, adjusting and balancing of mechanical, electrical, heating, air conditioning, and other systems installed by Contractor or its subcontractors; and

(3) Prepare a marked set of prints which indicate the dimensioned location of buried utility lines and which show changes in the work made during construction ("as-built documents"). All as-built documents shall be provided to the DISTRICT in a format approved by the DISTRICT.

e. The ARCHITECT shall immediately notify the DISTRICT of adjustments in previous estimates of the Construction Cost arising from market fluctuations or approved changes in scope or requirements.

f. The ARCHITECT shall perform Construction Document Services to keep the PROJECTS within all Program scope constraints set by the DISTRICT, as well as approved Budget, unless otherwise modified by written authorization by the DISTRICT.

g. As part of the ARCHITECT's professional services, ARCHITECT has coordinated the drawings on the PROJECTS. It is suggested, but not mandatory, that ARCHITECT perform a clash detection review of the final Construction Documents prior to submission to DSA. However, if the Construction Manager, or Design Build entity performs a clash check, ARCHITECT shall work with the Construction Manager or Design Build entity to perform reasonable clash check resolution meetings and make revisions as necessary prior to DSA submission, during DSA review, and after DSA review (followed by CCD submission or Addenda submission to document any necessary changes).

h. If the estimated PROJECTS Construction Cost exceeds the Budget, the ARCHITECT shall make all necessary design revisions at no cost to the DISTRICT to comply with the Budget and scope set by the DISTRICT in conformance with Articles V and VI, unless otherwise modified by written authorization of the DISTRICT.

#### 34. **Bidding & Award Phase**

a. The ARCHITECT, following the DISTRICT's approval of the Construction Documents and of the latest estimate of Construction Cost, shall assist the DISTRICT in obtaining bids and awarding the Contract for the construction of the PROJECTS.

b. The ARCHITECT shall prepare all the necessary bidding information and bidding forms required to bid the PROJECTS. The ARCHITECT shall also assist the DISTRICT with the preparation of the Contractor's Contract form, the general conditions, the supplementary conditions, and all other contract documents necessary to bid the PROJECTS and award a complete Contract to the lowest responsible responsive bidder. The DISTRICT will provide the standard general conditions and supplementary conditions that must be incorporated into the Contract with the Contractor. The ARCHITECT shall review the general conditions, supplementary conditions, and all other contract documents provided by the DISTRICT for incorporation into the Contract with the Contractor and shall coordinate such documents with all other Construction Documents that are prepared by the ARCHITECT pursuant to this AGREEMENT. The ARCHITECT's coordination obligations under this Section include, but are not limited to, verifying that any and all bid instructions and requirements set forth in the specifications prepared by the ARCHITECT are also set forth in the Instructions to Bidders and the Bid Form that are distributed to the bidders in connection with the PROJECTS. The ARCHITECT shall prepare and sign all written Addendums that are necessary to incorporate changes into the DSA approved Construction Documents prior to the award of the PROJECTS. The ARCHITECT shall assist the DISTRICT in distributing all Addendums to each bidder that has obtained a set of the DSA approved Construction Documents. The ARCHITECT shall ensure that all Addendums are submitted to and approved by DSA prior to certification of the PROJECTS.

c. The ARCHITECT shall deposit a reproducible set of Construction Documents including, but not limited to, all drawings and specifications for the PROJECTS at a reprographics company specified by the DISTRICT for the bid and for printing of additional sets of the DSA approved Construction Documents during the PROJECTS. In accordance with the requirements of this Section, the ARCHITECT shall forward all plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files and/or BIM files) prepared by the ARCHITECT or the ARCHITECT's consultants during the course of the PROJECTS to the reprographics company specified by the DISTRICT at no additional cost to the DISTRICT. The DISTRICT may request that such documents be delivered to the reprographics company selected by the DISTRICT in CADD, PLOT, TIFF or other format approved by the DISTRICT. In addition, the ARCHITECT shall provide the DISTRICT with a BIM format diskette file with all layers unprotected so the DISTRICT may utilize with a Construction Manager or Design Build entity. It is expressly understood that the release of the underlying BIM documents is for the limited use only for the PROJECTS (unless otherwise agreed to in writing) and that changes that are made to the underlying BIM documents are not the responsibility of ARCHITECT. For documentation purposes, one record set of the transmitted documents shall be placed on a

CD (or other acceptable electronic media) properly labeled as the record set of documents transmitted to the DISTRICT. Reasonable costs for producing this record document shall be reimbursed to the ARCHITECT and ARCHITECT's consultants. ARCHITECT is also advised to make a record set of clash detection checks to record the clashes that are encountered on the set of documents distributed for future record purposes and this clash detection shall also be placed on the CD. This clash detection document is not a requirement but simply recommended.

d. Upon the DISTRICT's request, the ARCHITECT shall recommend an acceptable plan room, or blueprinting shop, or, in the alternative, ARCHITECT shall print the necessary bidding information, Contract forms, general conditions, supplementary general conditions and all other Construction Documents necessary to bid the PROJECTS and award a complete Contract to a successful bidder and shall deliver/distribute such printed copies to all interested bidders.

e. The ARCHITECT shall make subsequent revisions to drawings, specifications, and other DSA approved Construction Documents that result from the approval of any substitution request, RFI, or submittal. All Revisions shall be prepared in writing and signed by the ARCHITECT. The ARCHITECT shall ensure that all Revisions are submitted to and approved by DSA prior to certification of the PROJECTS.

f. If the lowest bid exceeds the Budget (or if a complete detailed estimate is prepared by a certified professional cost estimator from Construction Documents that are at least 90% completed) for the PROJECTS, the ARCHITECT, in consultation with, and at the direction of, the DISTRICT, shall provide such modifications in the Construction Documents as necessary to bring the cost of the PROJECTS within its Budget as set forth in Articles V and VI.

### **35. Construction Phase**

a. Prior to the start of construction, the ARCHITECT shall certify that the following documents have been submitted to DSA:

(1) Contract Information Form DSA-102.

(2) Inspector Qualification Record Form DSA-5 should be submitted 10 days prior to the time of starting construction.

b. The Construction Phase will commence with the award of the Construction Contract to Contractor.

c. The ARCHITECT shall reproduce five (5) sets of Construction Documents and all progress prints for the DISTRICT's and the DISTRICT's consultant's use at the ARCHITECT's expense.

d. The ARCHITECT shall provide technical direction to a full-time Project Inspector employed by, and responsible to, the DISTRICT, as required by applicable law. The ARCHITECT shall direct and monitor the work of the Laboratory of Record as



required by applicable law and provide code required supervision of Special Inspectors not provided by the Laboratory of Record. Upon the DISTRICT's award of a Construction Contract to the Contractor, the ARCHITECT shall obtain the necessary Project Inspection Cards ("PIC") (Form DSA 152) from the DSA that are needed for the Project Inspector's use in approving and signing off work on the PROJECTS as it is completed by the Contractor. The ARCHITECT shall verify that the Project Inspector has the appropriate amount of PIC's that are needed for the inspection and completion of the entire PROJECTS prior to the commencement of any work by the Contractor on the PROJECTS. The ARCHITECT shall provide the Project Inspector, Laboratory of Record and each Special Inspector with a copy of the DSA approved Construction Documents including, but not limited to, the approved Statement of Structural Tests and Special Inspections (Form DSA 103) prior to the commencement of any work on the PROJECTS at the ARCHITECT's expense.

e. The ARCHITECT shall meet with the Project Inspector, DISTRICT, Contractor, Laboratory of Record and Special Inspectors as needed throughout the completion of the PROJECTS to verify, acknowledge and coordinate the testing and special inspection program required by the DSA approved Construction Documents.

f. The ARCHITECT shall prepare Interim Verified Reports (Form DSA 6-AE) and submit such Interim Verified Reports to DSA, the Project Inspector and the DISTRICT prior to the Project Inspector's approval and sign off of any of the following sections of the PROJECTS's PIC's as applicable:

- (1) Initial Site Work and Foundations Preparation;
- (2) Vertical and Horizontal Framing;
- (3) Appurtenances;
- (4) Finish Site Work and Other Work;
- (5) Final.

If the ARCHITECT has delegated responsibility for any portion of the PROJECTS's design to other engineers, the ARCHITECT shall ensure that such engineers submit the necessary Interim Verified Reports (Form DSA 6-AE) to DSA, the Project Inspector and the DISTRICT during the course of construction and prior to the Project Inspector's approval and sign off of the above sections of the DSA Form 152 as they relate to the portions of the PROJECTS that were delegated to such engineers.

g. The ARCHITECT shall be responsible for reviewing and ensuring, on a monthly basis, that the Contractor is maintaining an up-to-date set of as-built documents which will be furnished to the DISTRICT upon completion. The ARCHITECT shall review the as-built documents prepared by the Contractor on a monthly basis and report whether they appear to be up to date, based upon the ARCHITECT's observations of the PROJECTS. If it appears the as-built documents are not being kept up to date by the Contractor, the ARCHITECT shall recommend to the DISTRICT, in writing, an appropriate withholding from the Contractor's monthly payment application to account for the Contractor's failure to maintain such as-built documents.

h. The ARCHITECT will endeavor to secure compliance by Contractor with the Contract requirements, but does not guarantee the performance of the Contractor's Contract.

i. The ARCHITECT shall provide general administration of the Construction Documents including, but not limited to, the following:

(1) Visiting the PROJECTS site to maintain such personal contact with the PROJECTS as is necessary to assure the ARCHITECT that the Contractor's work is being completed, in every material respect, in compliance with the DSA approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so the ARCHITECT can verify that the work does or does not comply with the DSA approved Construction Documents, whichever is greater) in order to:

i. Become familiar with, and to keep the DISTRICT informed about, the progress and quality of the portion of the work completed and for the preparation of the weekly written reports the ARCHITECT will prepare and submit to the DISTRICT for its review;

ii. Become familiar with, and to keep DSA and Project Inspector informed about, the progress and quality of the portion of the work completed and for the preparation of the necessary Interim Verified Reports the ARCHITECT will prepare and submit to DSA and Project Inspector as necessary for the timely inspection of the PROJECTS and for the approval and sign off of each block/section of the PIC's during the course of the PROJECTS's construction;

iii. Endeavor to guard against nonconforming work and deficiencies in the work;

iv. Determine if the work is being performed in a manner indicating that the work, when fully completed, will be in accordance with the approved DSA Construction Documents;

v. Attend weekly on-site construction meetings, and being otherwise available to the DISTRICT and the Project Inspector for site meetings on an "as-needed" basis;

vi. Examine Contractor applications for payment and to issue certificates for payment in amounts approved by the necessary parties; and

vii. Verify, at least monthly, in coordination with the Project Inspector, that all as-built documents are being updated pursuant to the Contract between the DISTRICT and the Contractor.

- (2) Making regular reports as may be required by all governmental agencies or authorities having jurisdiction over the PROJECTS;
- (3) Reviewing schedules and shop drawings for compliance with design;
- (4) Approving substitution of materials, equipment, and the laboratory reports thereof for conformance to the DISTRICT's standards subject to DISTRICT knowledge and approval;
- (5) Responding to DSA field trip notes;
- (6) Preparing Construction Change Documents for approval by DSA;
- (7) Preparing Immediate Change Directives as directed by the DISTRICT;
- (8) Preparing change orders for written approval by the DISTRICT;
- (9) Making Punch List observations when the PROJECTS reaches Substantial Completion;
- (10) Determining date of Substantial Completion and the date of final completion of the PROJECTS;
- (11) Providing a color schedule of all materials for the PROJECTS for the DISTRICT's review and approval;
- (12) Assembling and delivering to the DISTRICT written guarantees, instruction books, diagrams, charts, and as-built documents that will be provided by the Contractor pursuant to the Contract between the DISTRICT and the Contractor;
- (13) Issuing the ARCHITECT's Certificate of Substantial Completion, Certificate of Completion and final certificate for payment; and
- (14) Providing any other architectural services to fulfill the requirements of the Construction Documents and this AGREEMENT.

j. ARCHITECT shall provide the DISTRICT with written reports, as necessary, to inform the DISTRICT of any problems arising during construction, changes contemplated as a result of each problem, and the progress of work.

k. The ARCHITECT, as part of the ARCHITECT's Basic Services, shall advise the DISTRICT of any deficiencies in construction following the acceptance of the work and prior to the expiration of the guarantee period of the PROJECTS.

l. The ARCHITECT shall be the interpreter of the requirements of the Construction Documents and advise the DISTRICT as to the performance by the Contractor thereunder.

m. The ARCHITECT shall make recommendations to the DISTRICT on claims relating to the execution and progress of the work and all matters and questions relating thereto. The ARCHITECT's recommendations in matters relating to artistic effect shall be consistent with the intent of the Construction Documents.

n. The ARCHITECT shall advise the DISTRICT to reject work which does not conform to the Construction Documents. The ARCHITECT shall promptly inform the DISTRICT whenever, in the ARCHITECT's opinion, it may be necessary to stop the work to avoid the improper performance of the Construction Agreement. The ARCHITECT has authority to require additional inspection or testing of the work in accordance with the provisions of the Construction Documents, whether work is fabricated, installed, or completed.

o. The ARCHITECT shall not issue orders to the Contractor that might commit the DISTRICT to extra expenses, or otherwise amend the Construction Documents, without first obtaining the written approval of the DISTRICT.

p. The ARCHITECT shall be the DISTRICT's representative during construction and shall advise and consult with the DISTRICT. The ARCHITECT shall have authority to act on behalf of the DISTRICT only to the extent provided in this AGREEMENT, unless otherwise modified in writing.

q. The ARCHITECT shall prepare all documents and/or drawings made necessary by errors and omissions in the originally approved drawings or specifications, and such modifications therein as may be necessary to meet unanticipated conditions encountered during construction, at no additional cost or expense to the DISTRICT. In addition, the ARCHITECT shall, at no additional cost, provide services made necessary by defect or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the ARCHITECT and promptly reported to the DISTRICT and Contractor, but which ARCHITECT failed to do.

r. The ARCHITECT shall examine, verify, and approve the Contractor's applications for payment and issue certificates for payment for the work and materials provided by the Contractor which also reflect the ARCHITECT's recommendation as to any amount which should be retained or deducted from those payments under the terms of the Construction Documents or for any other reason. The ARCHITECT's certification for payment shall constitute a representation to the DISTRICT, based on the ARCHITECT's observations and inspections at the site, that the work has progressed to the level certified, that quality of the work is in accordance with the DSA approved Construction Documents, that the as-built documents are up to date, and that the Contractor is entitled to payment in the amount certified.

s. The ARCHITECT shall review and approve, or take other appropriate action, upon the Contractor's submittals of shop drawings, product data, and samples for the purpose of checking for conformance with the Construction Documents. The ARCHITECT's actions shall not delay the work, but should allow for sufficient time, in the ARCHITECT's professional judgment, to permit adequate review. The ARCHITECT shall ensure that all deferred approval submittals are resolved and approved by DSA prior to incorporation in the PROJECTS.

t. After the PROJECTS has been let, all changes to the DSA approved Construction Documents shall be made by means of a Construction Change Document ("CCD") unless otherwise approved by the DISTRICT in writing. The ARCHITECT shall be responsible for preparing each CCD related to the PROJECTS and shall determine which changes affect the Structural, Access or Fire & Life Safety (collectively "SAFLS") portions of the PROJECTS and ensure that such changes are documented and implemented through a written CCD-Category A (Form DSA 140). All CCD-Category A's must be submitted to DSA by the ARCHITECT with all supporting documentation and data and must be approved by DSA before such work can commence on the PROJECTS. The ARCHITECT shall obtain the DISTRICT's approval of all CCD-Category A's before they are submitted to DSA for review and approval. All other changes to the DSA approved Construction Documents not involving SAFLS portions of the PROJECTS are not required to be submitted to DSA unless DSA specifically requires such changes to be submitted to DSA in the form of a written CCD (Form DSA 140) inclusive of all supporting documentation and data. Changes that are not determined by the ARCHITECT and/or DSA to require documentation through an approved CCD-Category A/B shall be documented through an alternative CCD form or other document approved by the DISTRICT or required by DSA.

u. The ARCHITECT shall prepare and issue Immediate Change Directives ("ICD") to the Contractor when directed by the DISTRICT to complete the work that is necessary due to the Contractor's failure to complete the PROJECTS in accordance with the DSA approved Construction Documents. The ARCHITECT shall provide the Project Inspector with a copy of the ICD and direct the Project Inspector to inspect the work as it is completed in accordance with the ICD.

v. All changes to the DSA approved Construction Documents, whether set forth in a CCD, ICD or any other document approved by the DISTRICT, shall be incorporated into change orders by the ARCHITECT for the DISTRICT's approval. Each change order shall identify: (1) the description of the change in the work; (2) the amount of the adjustment to the Contractor's Contract sum, if any; and (3) the extent of the adjustment in the Contractor's Contract Time, if any. The ARCHITECT shall prepare change orders, with supporting documentation and data, for the DISTRICT's review in accordance with the Construction Documents, and may authorize minor changes in the work not involving an adjustment in the contract sum or an extension of time. The ARCHITECT shall evaluate and make written recommendations regarding Contractor's proposals for possible change orders.

w. The ARCHITECT shall, at the ARCHITECT's expense, prepare a set of reproducible record drawings showing significant changes in the work made during construction based on the marked-up prints, drawings and other data furnished by the Contractor to the ARCHITECT.

x. The ARCHITECT shall inspect the PROJECTS to determine the date or dates of Substantial Completion and final completion. The ARCHITECT shall receive and forward to the DISTRICT for the DISTRICT's review all written warranties and related documents required by the Construction Documents, and issue a final certificate for payment upon Contractor compliance with the requirements of the Construction Documents. In the event the approved schedule for the PROJECTS has been exceeded due to the fault of the Contractor, the ARCHITECT shall issue a written notice to the DISTRICT and the Contractor evaluating the cause of the delay(s) and shall advise the DISTRICT and the Contractor of the commencement of liquidated damages under the Contract between the DISTRICT and Contractor.

y. The ARCHITECT shall provide written evaluation of the Contractor's performance under the requirements of the Construction Documents when requested in writing by the DISTRICT. When the ARCHITECT has actual knowledge of any defects, errors, or deficiencies with respect to the Contractor's performance on the PROJECTS, the ARCHITECT shall provide the DISTRICT and the Contractor with written notification of such defects, errors, or deficiencies.

z. The ARCHITECT shall:

(1) Review all requests for information ("RFI"), submittals, and substitution requests that are submitted by the Contractor in connection with the PROJECTS;

(2) Determine the data criteria required to evaluate requests for substitutions; and

(3) Be responsible for ensuring that all RFI's, submittals and substitution requests by the Contractor are responded to not later than fourteen (14) days, or as soon as the circumstances require.

aa. The ARCHITECT shall be responsible for gathering information and processing forms required by any applicable governing agencies and/or authorities having jurisdiction over the PROJECTS including, but not limited to, the County Health Department, the local building departments, local fire departments, the OPSC, and DSA, in a timely manner and ensure proper close-out of the PROJECTS.

bb. The ARCHITECT shall obtain the DISTRICT's approval of all CCD's immediately following the request for such changes by the Contractor or upon any other circumstances necessitating a change. Furthermore, the ARCHITECT shall maintain a log of all CCD's, ICD's change orders or any other DISTRICT approved form documenting changes to the DSA approved Construction Documents (the "Changes Log"), including status, for the DISTRICT's review and approval. The ARCHITECT

shall submit the Changes Log to the DISTRICT with its monthly invoice. Submission of the Changes Log is a requirement for payments to the ARCHITECT during the course of construction.

cc. The ARCHITECT shall evaluate and render written recommendations within a reasonable time on all claims, disputes, or other matters at issue between the DISTRICT and Contractor relating to the execution or progress of the work as provided in the Contract between the DISTRICT and the Contractor. Under no circumstances should this evaluation take longer than 20 calendar days from the date the claim is received by the ARCHITECT.

dd. The ARCHITECT shall provide assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

ee. The ARCHITECT shall review the list of minor defects, deficiencies, and/or incomplete items (hereinafter the "Punch List") and the fully executed Verified Report (Form DSA-6) that are submitted to the DISTRICT by the Contractor when the Contractor considers the PROJECTS to be Substantially Complete. The ARCHITECT shall inspect the PROJECTS, in conjunction with the Contractor, in order to verify the Contractor's Punch List, add any other items to the Punch List and to confirm that Substantial Completion has been reached on the PROJECTS. In the event the Contractor does not submit a fully executed Verified Report with its proposed Punch List, the ARCHITECT shall reject the Contractor's Punch List, in writing, as premature. If Substantial Completion of the PROJECTS is verified by the ARCHITECT and the required Verified Report has been submitted to the DISTRICT for review, the ARCHITECT shall finalize the Punch List and notify the Contractor in writing that all Punch List items must be corrected prior to acceptance of the PROJECTS and final payment, and that all Punch List items must be completed within the duration set forth in the Contract between the DISTRICT and the Contractor. The DISTRICT shall also be notified in writing of all Punch List items identified by the ARCHITECT and the Contractor. The ARCHITECT shall notify the DISTRICT when all Punch List items have been corrected by the Contractor for the DISTRICT's final acceptance of the PROJECTS and final payment. In the event the Contractor fails to correct any Punch List item(s) within the duration set forth in the Contract between the DISTRICT and the Contractor, the ARCHITECT shall inform the DISTRICT of such default and provide the DISTRICT with a reasonable valuation of the cost to correct each outstanding Punch List item for deduction from the Contractor's final payment and/or retention. For purposes of this AGREEMENT, "Substantial Completion" shall mean the following five (5) conditions have been met: (1) all contractually required items have been installed with the exception of only minor and incomplete items on the Punch List; (2) All Fire/Life Safety Systems have been installed, and are working and signed off on the DSA Form 152 Inspection Card; (3) all building systems including mechanical, electrical and plumbing are functioning; (4) all other items DSA Form 152 Inspection Card requirements for the Project have been approved and signed off; and (5) the PROJECTS is fit for occupancy and its intended use.

ff. Once the ARCHITECT has verified the Substantial Completion of the PROJECTS, the ARCHITECT shall issue a Certificate of Substantial Completion to the Contractor and the DISTRICT. Upon the issuance of the Certificate of Substantial Completion, the ARCHITECT shall prepare and submit to DSA, Project Inspector and the DISTRICT a written Verified Report, on Form DSA 6AE, pursuant to Section 4-336 of Title 24 of the California Code of Regulations. The ARCHITECT shall also submit a signed Verified Report to DSA, Project Inspector and the DISTRICT upon any of the following events:

- (1) Work on the PROJECTS is suspended for a period of more than one month;
- (2) The services of the ARCHITECT are terminated for any reason prior to the completion of the PROJECTS;
- (3) DSA requests a Verified Report.

gg. The ARCHITECT and its consultants shall verify that all defective, deficient, or incomplete work identified in any Notice(s) of Deviation or similar notice(s) issued by the ARCHITECT, Project Inspector, Special Inspector(s), Laboratory of Record and/or any governmental agency or authority, is fully corrected and closed before the ARCHITECT approves any final Punch List by the Contractor. As part of the ARCHITECT's Basic Services under this Section, the ARCHITECT shall direct the applicable Inspectors, Special Inspectors, and/or engineers on the PROJECTS to visually verify that each defective, deficient and/or incomplete item of work referenced in each Notice of Deviation have been rectified and closed prior to the approval of the final Punch List and the issuance of any Certificate of Substantial Completion by the ARCHITECT. In the event the ARCHITECT and/or its consultants fail to verify that such work has been corrected by the Contractor before the ARCHITECT approves the final Punch-List and such work has in fact not been corrected, the ARCHITECT shall be responsible for performing all the architectural and/or engineering services necessary, at no additional cost to the DISTRICT, to ensure such open and outstanding items in the Notice(s) of Deviation are addressed accordingly and that all work related to such notices is corrected in a manner acceptable to the DISTRICT and DSA.

### **36. Project Close-Out**

a. Within thirty (30) days after the completion of the PROJECTS's construction and the ARCHITECT's receipt of as-built documents from the Contractor, ARCHITECT will review the as-built documents prepared by the Contractor and revise the record drawings and specifications so that they include all material changes made necessary by CCD's, ICD's, change orders, RFI's, change order requests ("COR's"), Bulletins, clarifications as noted by the Contractor in its as-built documents and/or any other DISTRICT approved document which details the changes that were made to the DSA approved Construction Documents. The ARCHITECT shall incorporate such changes into a complete AutoCAD as-built file, in the original, executable, software format, and PDF files, and provide all such documents, including five (5) hard copies, to



the DISTRICT at no additional cost. In the event the Contractor fails to provide its as-built documents within 30 days of the PROJECTS's completion, the ARCHITECT shall notify the DISTRICT, in writing, of the Contractor's failure and recommend the appropriate withholding from the Contractor's final payment under the Contract with the DISTRICT.

b. The ARCHITECT shall assist the DISTRICT in securing the delivery of any and all applicable documents described in Sections c and d below, to DSA for review prior to issuance of a "Certificate of Completion." The ARCHITECT shall submit all documents prepared by, or in control of, the ARCHITECT to DSA without delay.

c. During the period the PROJECTS is under construction, the ARCHITECT shall certify that the following documents have been submitted to DSA:

- (1) Addenda, deferred approvals and revisions;
- (2) Copies of the Project Inspector's semi-monthly reports;
- (3) Construction deviation notices;
- (4) Copies of the laboratory reports on all tests or laboratory inspections as returned and done on the PROJECTS;
- (5) Special inspection reports;
- (6) Construction Change Directives;
- (7) Copies of all the necessary PIC's which have been approved and signed off by the Project Inspector for the submission to and certification by DSA; and
- (8) All other documents required to be submitted to DSA in accordance with Title 24 and the Construction Oversight Process Procedure set forth in DSA's PR 13-01.

The ARCHITECT shall notify the DISTRICT, in writing, if any of the above forms are not promptly submitted to DSA by the responsible parties. If necessary, the ARCHITECT shall assist the DISTRICT in obtaining the delivery of the above documents to DSA.

d. Upon the completion of all construction, including all Punch List items, the ARCHITECT shall assist the DISTRICT in securing the delivery of the following documents to DSA:

- (1) Copy of the Notice of Completion.

- (2) Final Verified Report Form DSA-6A/E certifying all work is 100% complete from the ARCHITECT, structural engineer, mechanical engineer, and electrical engineer.
- (3) Final Verified Report Form DSA-6 certifying all work is 100% complete from the Contractor or Contractors, Project Inspector, and Special Inspector(s).
- (4) Verified Reports of Testing and Inspections as specified on the approved drawings and specifications, i.e., Final Laboratory Report, Welding, Glued-Laminated Timber, etc.
- (5) Weighmaster's Certificate (if required by approved drawings and specifications).
- (6) Copies of the signature page of all Addenda as approved by DSA.
- (7) Copies of the signature pages of all deferred approvals as approved by DSA.
- (8) Copies of the signature pages of all Revisions as approved by DSA.
- (9) Copies of the signature page of all applicable Construction Change Documents as approved by DSA.
- (10) Verification by the Project Inspector that all items noted on any "Field Trip Notes" have been corrected.

The ARCHITECT shall notify the DISTRICT, in writing, if any of the above items are not promptly submitted to the ARCHITECT and/or the DISTRICT by the responsible parties for submittal to DSA. If necessary, the ARCHITECT shall assist the DISTRICT in obtaining the above documents for delivery to DSA.

### **ARTICLE III - ADDITIONAL ARCHITECT'S SERVICES**

1. The ARCHITECT shall notify the DISTRICT in writing of the need for additional services required due to circumstances beyond the ARCHITECT's control ("Additional Services"). The ARCHITECT shall obtain written authorization from the DISTRICT before rendering Additional Services. Compensation for all valid Additional Services shall be negotiated and approved in writing by the DISTRICT before such Additional Services are performed by the ARCHITECT. No compensation shall be paid to the ARCHITECT for any Additional Services that are not previously approved by the DISTRICT in writing. Additional Services may include:

- a. Making material revisions in drawings, specifications or other documents when such revisions are required by the enactment or revision of laws, rules, or regulations subsequent to the preparation and completion of the Construction Documents;

b. Preparing drawings, specifications and other documentation and supporting data, and providing other services in connection with change orders required by causes beyond the control of the ARCHITECT which are not the result of the direct or indirect negligence, errors, or omissions on the part of the ARCHITECT;

c. Providing consultation concerning the replacement of work damaged by fire and furnishing services required in connection with the replacement of such work;

d. Providing services made necessary by the default of the Contractor, which does not arise directly or indirectly from negligence, errors, or omissions of ARCHITECT;

e. If the DISTRICT requests the PROJECTS be let on a segregated basis after the completion of Design Development Phase where segregation does not arise from ARCHITECT exceeding the estimated Budget constraint, then plan preparation and/or contract administration work to prepare the segregated plans is an Additional Service subject to prior negotiation and written approval by the DISTRICT;

f. Providing contract administration services after the construction Contract time (including any Governmental Delay Float as addressed in the General Conditions of the Construction Contract with Contractor) has been exceeded through no fault of the ARCHITECT, where it is determined that the fault is that of the Contractor, and liquidated damages are collected therefor. The ARCHITECT's compensation is expressly conditioned on the lack of fault of the ARCHITECT and payment will be made upon collection of liquidated damages from the Contractor. Payment of the ARCHITECT shall be made from collected liquidated damages;

g. Providing BIM documents that exceeds LOD 200; and

h. Providing any other services not otherwise included in this AGREEMENT or not customarily furnished in accordance with generally accepted architectural practice.

2. If authorized in writing by the DISTRICT, the ARCHITECT shall provide one or more PROJECTS representatives to assist in carrying out more extensive representation at the site than is described in Article II. The PROJECTS representative(s) shall be selected, employed, and directed by the ARCHITECT, and the ARCHITECT shall be compensated therefor as agreed by the DISTRICT and ARCHITECT. Through the observations of such PROJECTS representative(s), the ARCHITECT shall endeavor to provide further protection for the DISTRICT against defects and deficiencies in the work, but the furnishing of such PROJECTS representation shall not modify the rights, responsibilities, or obligations of the ARCHITECT as described elsewhere in this AGREEMENT. Such services shall be negotiated and approved in writing by the DISTRICT.

#### **ARTICLE IV - DISTRICT'S RESPONSIBILITIES**

1. The DISTRICT shall provide to the ARCHITECT information regarding requirements for the PROJECTS, including information regarding the DISTRICT's objectives, schedule, and budget constraints, as well as any other criteria provided by the DISTRICT.

2. Prior to the Schematic Design Phase, the ARCHITECT shall prepare a current overall budget for the PROJECTS which shall include the Construction Cost budget for the PROJECTS. The overall budget shall be based upon the DISTRICT's objectives, schedule, budget constraints, and any other criteria that are provided to the ARCHITECT by the DISTRICT pursuant to Article IV, Section 1, above. The DISTRICT shall approve the Construction Cost budget prepared by the ARCHITECT pursuant to this Section and this shall be the "Budget" for the PROJECTS as set forth in this AGREEMENT. The Budget for the Project shall not exceed \$1,700,000.

3. The DISTRICT shall notify the ARCHITECT of administrative procedures required and name a representative authorized to act on its behalf. The DISTRICT shall promptly render decisions pertaining thereto to avoid unreasonable delay in the progress of the PROJECTS. The DISTRICT shall observe the procedure of issuing any orders to Contractors only through the ARCHITECT.

4. The DISTRICT shall give prompt written notice to the ARCHITECT if the DISTRICT becomes aware of any fault or defect in the PROJECTS or nonconformance with the Construction Documents. However, the DISTRICT's failure or omission to do so shall not relieve the ARCHITECT of the ARCHITECT's responsibilities under Title 21, Title 24, and the Field Act hereunder. The DISTRICT shall have no duty to observe, inspect, or investigate the PROJECTS.

5. The proposed language of certifications requested of the ARCHITECT or ARCHITECT's consultants shall be submitted to the ARCHITECT for review and approval at least fourteen (14) days prior to execution.

6. The DISTRICT shall provide a topographical survey to the ARCHITECT upon request.

#### **ARTICLE V - COST OF CONSTRUCTION**

1. During the Schematic Design, Design Development, and Construction Document Phases, the ARCHITECT's estimates of Construction Cost shall be reconciled against the Budget approved by the DISTRICT pursuant to Article IV, Section 2.

2. The PROJECTS's "Construction Cost," as used in this AGREEMENT, means the total cost to the DISTRICT of all work designed or specified by the ARCHITECT, which includes the total award from the initial construction Contract(s) plus the work covered by approved change orders and/or any alternates approved by the DISTRICT. The Construction Cost shall not include any costs that are not specifically referenced in this Article V, Section 2, as approved costs. Costs excluded from the Construction Cost include, but are not limited to, payments to the ARCHITECT or other DISTRICT consultants, costs of inspections, surveys, tests, and landscaping not included in PROJECTS.

3. If the PROJECTS is using the multiple-prime delivery method of construction, the Construction Manager's fees and/or general conditions will only be included in the total Construction Cost used to calculate the ARCHITECT's fee only if agreed upon in writing by the

DISTRICT. Absent any written agreement, the Construction Manager's fees or general conditions shall not be included in the total Construction Cost used to calculate the ARCHITECT's fee.

4. When labor or material is furnished by the DISTRICT below its market cost, the Construction Cost shall be based upon current market cost of labor and new material.

5. The provisional Construction Cost shall be the acceptable estimate of Construction Costs to the DISTRICT as submitted by the ARCHITECT until such time as bids have been received, whereupon it shall be the bid amount of the lowest responsible responsive bidder or, if the lease-leaseback method is used, the total Guaranteed Maximum of the lease-leaseback Construction Services Agreement.

6. Any Budget or fixed limit of Construction Cost shall be adjusted if the bidding has not commenced within ninety (90) days after the ARCHITECT submits the Construction Documents to the DISTRICT to reflect changes in the general level of prices in the construction industry between the date of submission of the Construction Documents to the DISTRICT and the date on which bids are sought for the PROJECTS.

7. If the lowest bid or final lease-leaseback Guaranteed Maximum proposal received exceeds the Budget:

a. The DISTRICT may give written approval of an increase of such fixed limit and proceed with the construction of the PROJECTS;

b. The DISTRICT may authorize rebidding of the PROJECTS within a reasonable time;

c. If the PROJECTS is abandoned, the DISTRICT may terminate this AGREEMENT in accordance with Article VIII, Section 2;

d. The DISTRICT may request the ARCHITECT prepare, at no additional cost, deductive change packages that will bring the PROJECTS within the Budget; or

e. The DISTRICT may request the ARCHITECT cooperate in revising the PROJECTS scope and quality as required to reduce the Construction Cost.

8. If the DISTRICT chooses to proceed under Article V, Section 7(e), the ARCHITECT, without additional charge, agrees to redesign the PROJECTS until the PROJECTS is brought within the Budget set forth in this AGREEMENT. Redesign does not mean phasing or removal of parts of the PROJECTS unless agreed to in writing by the DISTRICT. Redesign means the redesign of the PROJECTS, with all its component parts, to meet the Budget set forth in this AGREEMENT.

#### **ARTICLE VI - ESTIMATE OF PROJECTS CONSTRUCTION COSTS**

1. Estimates referred to in Article II shall be prepared on a square foot/unit cost basis, or more detailed computation if deemed necessary by the DISTRICT, considering

prevailing construction costs and including all work for which bids will be received. It is understood that the PROJECTS Construction Cost is affected by the labor and/or material market as well as other conditions beyond the control of the ARCHITECT or DISTRICT.

2. The ARCHITECT shall prepare and review the ARCHITECT's estimates of Construction Cost at each phase of the ARCHITECT's services. The ARCHITECT shall provide the DISTRICT with a written evaluation of the estimates at each phase of the ARCHITECT's services. The ARCHITECT's written evaluations shall, among other things, evaluate how the estimates compare to the Budget. If such estimates are in excess of the Budget, the ARCHITECT shall revise the type or quality of construction to come within the Budget at no additional cost to the DISTRICT. The ARCHITECT's initial budget and scope limitations shall be realistic and be reviewed with the DISTRICT prior to formalization.

3. The ARCHITECT, upon request of the DISTRICT, shall prepare a detailed estimate of Construction Costs at no additional cost.

#### **ARTICLE VII - ARCHITECT'S DRAWINGS AND SPECIFICATIONS**

1. All documents including, but not limited to, plans, drawings, specifications, record drawings, models, mock-ups, renderings and other documents (including all computer files, BIM files and/or AutoCAD files) prepared by the ARCHITECT or the ARCHITECT's consultants for the PROJECTS, shall be and remain the property of the DISTRICT pursuant to Education Code section 17316 for the purposes of repair, maintenance, renovation, modernization, or other purposes as they relate to the PROJECTS. The DISTRICT, however, shall not be precluded from using the ARCHITECT's or ARCHITECT's consultant's documents enumerated above for the purposes of additions, alignments, or other development on the PROJECTS site.

2. If DISTRICT intends to reuse ARCHITECT's plans, specifications, or other documents for a project or projects other than that which is the subject of this AGREEMENT, and for which the ARCHITECT is not the architect of record, a fee of three percent (3%) of the Construction Costs shall be paid to the ARCHITECT for such reuse. In the event of such reuse or modification of the ARCHITECT's drawings, specification, or other documents by any person, firm, or legal entity, the DISTRICT agrees to indemnify, defend, and hold the ARCHITECT harmless from and against any and all claims, liabilities, suits, demands, losses, costs, and expenses, including, but not limited to, reasonable attorneys' fees accruing to, or resulting from, any and all persons, firms, or any other legal entity, on account of any damage or loss to property or persons including, but not limited to, death arising out of such unauthorized use, reuse or modification of the ARCHITECT's drawings, specifications, or other documents. The DISTRICT further agrees to remove the names and seals of the ARCHITECT and the ARCHITECT's consultants from the title block and signature pages. The DISTRICT, however, may use the ARCHITECT's plans and documents as enumerated in this Article as reference documents for the purposes of additions, alignments, or other development on the PROJECTS site. Prior to reuse of the ARCHITECT's documents for any project other than an addition, alignment, or other development on the PROJECTS site, the DISTRICT agrees to notify the ARCHITECT in writing of such reuse.

## ARTICLE VIII - TERMINATION

1. This AGREEMENT may be terminated by either PARTY upon fourteen (14) days' written notice to the other PARTY in the event of a substantial failure of performance by such other PARTY, including insolvency of the ARCHITECT, or if the DISTRICT should decide to abandon or indefinitely postpone the PROJECTS.

2. In the event of a termination based upon abandonment or postponement by DISTRICT, the DISTRICT shall pay the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of the abandonment or postponement, plus any sums due the ARCHITECT for Board approved Additional Services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the DISTRICT or in the possession of the ARCHITECT. In the event termination is for a substantial failure of performance, all damages and costs associated with the termination, including increased consultant and replacement architect costs, shall be deducted from payments due the ARCHITECT.

3. In the event a termination for cause is determined to have been made wrongfully or without cause, then the termination shall be treated as a termination for convenience in accordance with Article VIII, Section 4, below, and ARCHITECT shall have no greater rights than it would have had if a termination for convenience had been effected in the first instance. No other loss, cost, damage, expense, or liability may be claimed, requested, or recovered by ARCHITECT.

4. This AGREEMENT may be terminated without cause by the DISTRICT upon fourteen (14) days' written notice to the ARCHITECT. In the event of a termination without cause, the DISTRICT shall pay the ARCHITECT for all services performed and all expenses incurred under this AGREEMENT supported by documentary evidence, including payroll records and expense reports, up until the date of notice of termination plus any sums due the ARCHITECT for Board-approved Additional Services. In ascertaining the services actually rendered hereunder up to the date of termination of this AGREEMENT, consideration shall be given to both completed work and work in process of completion and to complete and incomplete drawings and other documents, whether delivered to the DISTRICT or in the possession of the ARCHITECT. In addition, ARCHITECT will be reimbursed for reasonable termination costs through the payment of 3% beyond the sum due the ARCHITECT under this Section through 50% completion of the ARCHITECT's portion of the PROJECTS and, if 50% completion is reached, payment of 3% of the unpaid balance of the contract to ARCHITECT as termination cost. This 3% payment is agreed to compensate the ARCHITECT for the unpaid profit ARCHITECT would have made under the PROJECTS on the date of termination and is consideration for entry into this termination for convenience clause.

5. In the event of a dispute between the PARTIES as to performance of the work or the interpretation of this AGREEMENT, or payment or nonpayment for work performed or not performed, the PARTIES shall attempt to resolve the dispute. Pending resolution of this dispute,

ARCHITECT agrees to continue the work diligently to completion. If the dispute is not resolved, ARCHITECT agrees it will neither rescind the AGREEMENT nor stop the progress of the work, but ARCHITECT's sole remedy shall be to submit such controversy to determination by a court having competent jurisdiction of the dispute after the PROJECTS has been completed, and not before.

### **ARTICLE IX - ACCOUNTING RECORDS OF THE ARCHITECT**

1. Records of the ARCHITECT's direct personnel and reimbursable expenses pertaining to the services performed on the PROJECTS and records of accounts between the DISTRICT and Contractor shall be kept on a generally recognized accounting basis and shall be available to the DISTRICT or his authorized representative at mutually convenient times.

### **ARTICLE X - COMPENSATION TO THE ARCHITECT**

The DISTRICT shall compensate the ARCHITECT as follows:

1. The ARCHITECT'S fee for performing Basic Services shall be 8% (eight percent) of the Cost of Construction determined in accordance with Article V, above.

2. The ARCHITECT's fees for performing Additional Services related to change orders are paid as approved by the DISTRICT's Board. If a change order is approved without ARCHITECT fee, no fee will be paid to the ARCHITECT unless negotiated and approved prior to commencing the change order-related services.

3. The ARCHITECT's compensation for performing all the Basic Services required by this AGREEMENT including, but not limited to, those services detailed in Article I and II, shall be as follows:

Schematic Design Phase: No more than 10% of the estimated Architect Fee, to be paid monthly based on actual level of completion

Design Development Phase: No more than 15% of the estimated Architect Fee, to be paid monthly based on actual level of completion

Construction Docs Phase: No more than 35% of the estimated Architect Fee, to be paid monthly based on actual level of completion

DSA Approval Phase: No more than 5% of the estimated Architect Fee, to be paid upon DSA approval of the PROJECTS including incorporation and approval of any back-check comments

Bidding Phase: No more than 2% of the estimated Architect Fee, to be paid monthly based on actual level of completion

Construction Admin. Phase: No more than 25% of the actual Architect Fee, to be paid monthly based on actual level of completion



Project Close-Out Phase: Balance of actual Architect Fee to be paid after the all the Project Close-Out Phase requirements set forth in Article II have been completed and the PROJECTS is certified by DSA and the Notice of Completion has been recorded.

4. The ARCHITECT and its consultants shall maintain time sheets detailing information including, but not limited to, the name of the employee, date, a description of the task performed in sufficient detail to allow the DISTRICT to determine the services provided, and the time spent for each task. The DISTRICT and ARCHITECT may otherwise mutually agree, in writing, on alternative types of information and levels of detail that may be provided by the ARCHITECT and its consultants pursuant to this Article X.

5. The ARCHITECT shall invoice all fees and/or costs monthly for the Basic Services that are provided in accordance with this AGREEMENT from the time the ARCHITECT begins work on the PROJECTS. The ARCHITECT shall submit one (1) invoice monthly to the DISTRICT detailing all the fees associated with the applicable progress to completion percentage, reimbursable expenses (if any), and Additional Services (if any) incurred for the monthly billing period. Invoices requesting reimbursement for expenses incurred during the billing period must clearly list items for which reimbursement is being requested and be accompanied by proper documentation (e.g., receipts, invoices), including a copy of the DISTRICT's authorization notice for the invoiced item(s), if applicable. Invoices requesting payment for Additional Services must reflect the negotiated compensation previously approved by the DISTRICT and include a copy of the DISTRICT's written authorization notice approving the Additional Services and the additional compensation approved by the DISTRICT. No payments will be made by the DISTRICT to the ARCHITECT for monthly invoices requesting reimbursable expenses or Additional Services absent the prior written authorization of the DISTRICT. The DISTRICT's prior written authorization is an express condition precedent to any payment by the DISTRICT for Additional Services or reimbursable expenses and no claim by the ARCHITECT for additional compensation related to Additional Services or reimbursable expenses shall be valid absent such prior written approval by the DISTRICT.

6. When ARCHITECT's Fee is based on a percentage of Construction Cost and any portions of the PROJECTS are deleted or otherwise not constructed, compensation for those portions of the PROJECTS shall be payable, to the extent actual services are performed, in accordance with the schedule set forth in Article X, Section 2, above, based on the lowest responsive bid price.

7. To the extent that the time initially established for the completion of ARCHITECT's services is exceeded or extended through no fault of the ARCHITECT, compensation for any services rendered during the additional period of time shall be negotiated and subject to the prior written approval of the DISTRICT. Assessment and collection of liquidated damages from the Contractor is a condition precedent to payment for extra services arising from Contractor-caused delays.

## **ARTICLE XI - REIMBURSABLE EXPENSES**

1. Reimbursable expenses are in addition to compensation for basic and extra services, and shall be paid to the ARCHITECT at one and one-tenth (1.1) times the expenses incurred by the ARCHITECT, the ARCHITECT's employees and consultants for the following specified items:

a. Approved reproduction of drawings and specifications in excess of the copies provided by this AGREEMENT which includes all the sets of the Construction Documents and all progress prints; and

b. Approved agency fees.

2. Approved reimbursable expenses are estimated to be \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) and this amount shall not be exceeded without the prior written approval of the DISTRICT.

3. Reimbursable Expenses shall not include the following specified items or any other item not specifically identified in Article XI, Section 1 above:

a. Travel expenses;

b. Check prints;

c. Prints or plans or specifications made for ARCHITECT's consultants and all progress prints;

d. Preliminary plans and specifications;

e. ARCHITECT's consultants' reimbursables;

f. Models or mock-ups; and

g. Meetings with Cities, planning officials, fire departments, DSA, State Allocation Board or other public agencies.

4. The DISTRICT's prior written authorization is an express condition precedent to any reimbursement to ARCHITECT of such costs and expenses for items not included in Article XI, Section 1 above as an allowable reimbursable expense, and no claim for any additional compensation or reimbursement shall be valid absent such prior written approval by DISTRICT. Payment for these reimbursable expenses shall be made as set forth in Article X.

## **ARTICLE XII - EMPLOYEES AND CONSULTANTS**

1. The ARCHITECT, as part of the ARCHITECT's basic professional services, shall furnish the consultant services necessary to complete the PROJECTS including, but not limited to: landscape architects; theater and acoustical consultants; structural, mechanical, electrical and civil engineers; and any other necessary design professionals and/or consultants as determined by the ARCHITECT and acceptable to the DISTRICT. All consultant services shall be provided at the ARCHITECT's sole expense. The ARCHITECT shall be responsible for the coordination and cooperation of all architects, engineers, experts or other consultants employed by the ARCHITECT. The ARCHITECT shall ensure that its engineers and/or other consultants file the required Interim Verified Reports, Verified Report and other documents that are necessary for

the PROJECTS's timely inspection and close-out as required by the applicable governmental agencies and/or authorities having jurisdiction over the PROJECTS including, but not limited to, DSA. The ARCHITECT shall ensure that its engineers and consultants observe the construction of the PROJECTS during the course of construction, at no additional cost to the DISTRICT, to maintain such personal contact with the PROJECTS as is necessary to assure such engineers and consultants that the Contractor's work is being completed, in every material respect, in compliance with the DSA approved Construction Documents (in no case shall the number of visits be less than once every week or as necessary to observe work being completed in connection with each block/section of a PIC so such engineers and consultants can verify that the work does or does not comply with the DSA approved Construction Documents, whichever is greater).

2. The ARCHITECT shall submit, for written approval by the DISTRICT, the names of the consultants and/or consultant firms proposed for the PROJECTS. The ARCHITECT shall notify the DISTRICT of the identity of all design professionals and/or consultants in sufficient time prior to their commencement of services to allow the DISTRICT a reasonable opportunity to review their qualifications and object to their participation on the PROJECTS if necessary. The ARCHITECT shall not assign or permit the assignment of any design professionals, engineers, or other consultants to the PROJECTS to which DISTRICT has a reasonable objection. Approved design professionals and/or consultants shall not be changed without the prior written consent of the DISTRICT. Nothing in this AGREEMENT shall create any contractual relation between the DISTRICT and any consultants employed by the ARCHITECTS under the terms of this AGREEMENT.

3. ARCHITECT's consultants shall be licensed to practice in California and have relevant experience with California school design and construction during the last five years. If any employee or consultant of the ARCHITECT is not acceptable to the DISTRICT, then that individual shall be replaced with an acceptable competent person at the DISTRICT's request.

4. The construction administrator or field representative assigned to the PROJECTS by the ARCHITECT shall be licensed as a California Architect and able to make critical PROJECTS decisions in a timely manner and shall be readily available and provide by phone, facsimile, and through correspondence, design direction and decisions when the construction administrator is not at the site.

### **ARTICLE XIII – MISCELLANEOUS**

1. The ARCHITECT shall make a written record of all meetings, conferences, discussions, and decisions made between or among the DISTRICT, ARCHITECT, and Contractor during all phases of the PROJECTS and concerning any material condition in the requirements, scope, performance and/or sequence of the work. The ARCHITECT shall provide a copy of such record to the DISTRICT.

2. To the fullest extent permitted by law, ARCHITECT agrees to indemnify and hold the DISTRICT harmless from all liability arising out of:

a. Workers' Compensation and Employer's Liability. Any and all claims under Workers' Compensation acts and other employee benefit acts with respect to ARCHITECT's employees or ARCHITECT's subcontractor's employees arising out of ARCHITECT's work under this AGREEMENT; and

b. General Liability. To the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify, defend and hold the DISTRICT harmless from any liability for damages for (1) death or bodily injury to person; (2) injury to, loss or theft of property; (3) any failure or alleged failure to comply with any provision of law; or (4) any other loss, damage or expense arising under either (1), (2), or (3) above, sustained by the ARCHITECT or the DISTRICT, or any person, firm or corporation employed by the ARCHITECT or the DISTRICT upon or in connection with the PROJECTS, except for liability resulting from the sole or active negligence, or willful misconduct of the DISTRICT, its officers, employees, agents, or independent Architects who are directly employed by the DISTRICT. The ARCHITECT, at its own expense, cost, and risk, shall defend any and all claims, actions, suits, or other proceedings (other than professional negligence covered by Section c below) that may be brought or instituted against the DISTRICT, its officers, agents, or employees, to the extent such claims, actions, suits, or other proceedings arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ARCHITECT, and shall pay or satisfy any judgment that may be rendered against the DISTRICT, its officers, agents, or employees, in any action, suit or other proceedings as a result thereof. Any costs to defend under this Section b shall not exceed the ARCHITECT's proportionate percentage of fault; and

c. Professional Liability. The ARCHITECT shall indemnify and hold the DISTRICT harmless from any loss, injury to, death of persons, damage to, destruction or impairment of property to the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, in performance of professional services arising out of, pertaining to, or relating to this Agreement, including all damages due to loss or theft, sustained by any person, firm, or corporation, including the DISTRICT, whether occurring on or off DISTRICT property; but not for any loss, injury, death, or damages caused by sole or active negligence, or willful misconduct of the DISTRICT. With regard to the ARCHITECT's obligation to indemnify for acts of professional negligence, such obligation does not include the obligation to provide defense counsel or to pay for the defense of actions or proceedings brought against the DISTRICT, but does include the obligation to, such that ARCHITECT shall reimburse the DISTRICT for attorneys' fees and costs incurred by the DISTRICT in defending such actions or proceedings brought against the DISTRICT, and such fees and costs shall not exceed the ARCHITECT's proportionate percentage of fault.

d. The PARTIES understand and agree that Article XIII, Section 2, of this AGREEMENT shall be the sole indemnity, as defined by California Civil Code § 2772, between the DISTRICT and the ARCHITECT related to the PROJECTS. Any other indemnity that is attached to this AGREEMENT as part of any EXHIBIT shall be void and unenforceable between the PARTIES.

e. Any attempt to limit the ARCHITECT's liability to the DISTRICT in any of the exhibits or attachments to this AGREEMENT shall be void and unenforceable between the PARTIES.

3. ARCHITECT shall purchase and maintain policies of insurance with an insurer or insurers qualified to do business in the State of California and acceptable to DISTRICT, which will protect ARCHITECT and DISTRICT from claims which may arise out of, or result from, ARCHITECT's actions or inactions relating to the AGREEMENT, whether such actions or inactions be by themselves or by any subconsultant, subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The aforementioned insurance shall include coverage for:

a. The ARCHITECT shall carry Workers' Compensation and Employers Liability Insurance in accordance with the laws of the State of California. However, such amount shall not be less than ONE MILLION DOLLARS (\$1,000,000).

(1) The ARCHITECT shall carry Employer's Liability Insurance covering claims against parties other than ARCHITECT for workplace injuries sustained by ARCHITECT's employees.

b. Commercial general and auto liability insurance, with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) combined single limit, bodily injury and property damage liability per occurrence, including:

1. Owned, non-owned, and hired vehicles;
2. Blanket contractual;
3. Broad form property damage;
4. Products/completed operations; and
5. Personal injury.

c. Professional liability insurance, including contractual liability, with limits of TWO MILLION DOLLARS (\$2,000,000.00) per claim. Such insurance shall be maintained during the term of this AGREEMENT and renewed for a period of at least five (5) years thereafter and/or at rates consistent with the time of execution of this AGREEMENT adjusted for inflation. In the event that ARCHITECT subcontracts any portion of ARCHITECT's duties, ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage as provided in this Section. Failure to maintain professional liability insurance is a material breach of this AGREEMENT and grounds for immediate termination.

d. Sexual Misconduct Insurance with limits of not less than TWO MILLION DOLLARS (\$2,000,000.00) for both per occurrence and in the aggregate.

e. Valuable Document Insurance. The ARCHITECT shall carry adequate insurance on all drawings and specifications as may be required to protect the DISTRICT in the amount of its full equity in those drawings and specifications, and shall file with

the DISTRICT a certificate of that insurance. The cost of that insurance shall be paid by the ARCHITECT, and the DISTRICT shall be named as an additional insured.

f. Each policy of insurance required under Article XIII, Section 3(b), above, shall name the DISTRICT and its officers, agents, and employees as additional insureds; shall state that, with respect to the operations of ARCHITECT hereunder, such policy is primary and any insurance carried by DISTRICT is excess and non-contributory with such primary insurance; shall state that not less than thirty (30) days' written notice shall be given to DISTRICT prior to cancellation, except for ten (10) days' written notice for nonpayment; and, shall waive all rights of subrogation. ARCHITECT shall notify DISTRICT in the event of material change in, cancellation, or failure to renew or make payment, each policy. Prior to commencing work, the ARCHITECT shall deliver to DISTRICT certificates of insurance as evidence of compliance with the requirements herein. In the event the ARCHITECT fails to secure or maintain any policy of insurance required hereby, the DISTRICT may, at its sole discretion, secure such policy of insurance in the name of, and for the account of, ARCHITECT, and in such event ARCHITECT shall reimburse DISTRICT upon demand for the cost thereof.

g. In the event that the ARCHITECT subcontracts any portion of the ARCHITECT's duties, the ARCHITECT shall require any such subcontractor to purchase and maintain insurance coverage for the types of insurance referenced in Article XIII, Sections 3(a), (b), (c) and (d), in amounts which are appropriate with respect to that subcontractor's part of work which shall in no event be less than \$500,000 per occurrence. The ARCHITECT shall not subcontract any portion of the ARCHITECT's duties under this AGREEMENT without the DISTRICT's prior written approval. Specification processing consultants are the only subcontractors exempt from maintaining professional liability insurance.

h. All insurance coverage amounts specified hereinabove shall cover only risks relating to, or arising out of, the PROJECTS governed by this particular AGREEMENT. The insurance and required amounts of insurance specified above shall not be reduced or encumbered on account of any other projects of the ARCHITECT.

4. The ARCHITECT, in the performance of this AGREEMENT, shall be and act as an independent contractor. The ARCHITECT understands and agrees that the ARCHITECT and all of the ARCHITECT's employees shall not be considered officers, employees, or agents of the DISTRICT, and are not entitled to benefits of any kind or nature normally provided employees of the DISTRICT and/or to which DISTRICT's employees are normally entitled including, but not limited to, State Unemployment Compensation or Workers' Compensation. ARCHITECT assumes the full responsibility for the acts and/or omissions of the ARCHITECT's employees or agents as they relate to the services to be provided under this AGREEMENT. The ARCHITECT shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security, and income taxes for the respective employees of the ARCHITECT.

5. Notices. All notices or demands to be given under this AGREEMENT by either PARTY to the other shall be in writing and given either by: (a) personal service; or (b) U.S.

Mail, mailed either by registered, overnight, or certified mail, return receipt requested, with postage prepaid. Service shall be considered given when received if personally served or if mailed on the third day after deposit in any U.S. Post Office. The address to which notices or demands may be given by either PARTY may be changed by written notice given in accordance with the notice provisions of this Section. At the date of this AGREEMENT, the addresses of the PARTIES are as follows:

To the DISTRICT:

Stephanie Morris, CBO  
Walnut Creek School District  
4801 Lucinda Ave.  
Keyes, CA 95328

To the ARCHITECT:

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. The ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, shall be prohibited from using tobacco products (smoking, chewing, etc.) on DISTRICT property at all times.

7. The ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, shall be prohibited from using profanity on DISTRICT property including, but not limited to, all school sites and this prohibition shall include, but is not limited to, all racial, ethnic and/or sexual slurs or comments which could be considered harassment.

8. Appropriate dress by the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, is mandatory. Therefore, tank tops, cut-offs and shorts shall not be allowed. Additionally, what is written or pictured on clothing must comply with the requirements of acceptable language as set forth above in Section above.

9. During the entire term of this AGREEMENT, the ARCHITECT, if applicable, shall fully comply with the provision of Education Code section 45125.1 (Fingerprint Requirements) when it is determined that the ARCHITECT will have contact with the DISTRICT's pupils while performing any services under this AGREEMENT.

10. Nothing contained in this AGREEMENT shall create a contractual relationship with, or a cause of action in favor of, any third party against either the DISTRICT or ARCHITECT.

11. The DISTRICT and ARCHITECT, respectively, bind themselves, their partners, officers, successors, assigns, and legal representatives to the other PARTY to this

AGREEMENT with respect to the terms of this AGREEMENT. ARCHITECT shall not assign this AGREEMENT.

12. This AGREEMENT shall be governed by the laws of the State of California.

13. This AGREEMENT represents the entire AGREEMENT between the DISTRICT and ARCHITECT and supersedes all prior negotiations, representations, or agreements, either written or oral. This AGREEMENT may be amended or modified only by an agreement in writing signed by both the DISTRICT and the ARCHITECT.

14. If either PARTY becomes involved in litigation arising out of this AGREEMENT or the performance thereof, each PARTY shall bear its own litigation costs and expenses, including reasonable attorneys' fees.

15. This AGREEMENT shall be liberally construed to effectuate the intention of the PARTIES with respect to the transaction described herein. In determining the meaning of, or resolving any ambiguity with respect to, any word, phrase, or provision of this AGREEMENT, neither this AGREEMENT nor any uncertainty or ambiguity herein will be construed or resolved against either PARTY (including the PARTY primarily responsible for drafting and preparation of this AGREEMENT), under any rule of construction or otherwise, it being expressly understood and agreed that the PARTIES have participated equally or have had equal opportunity to participate in the drafting hereof.

16. The ARCHITECT is prohibited from capturing on any visual medium images of any property, logo, student, or employee of the DISTRICT, or any image that represents the DISTRICT without express written consent from the DISTRICT.

17. In accordance with Education Code section 17604, this AGREEMENT is not valid, binding, or an enforceable obligation against the DISTRICT until approved or ratified by motion of the Governing Board, duly passed and adopted.

***(REMAINDER OF PAGE INTENTIONALLY LEFT BLANK)***



The PARTIES, through their authorized representatives, have executed this AGREEMENT as of the day and year first written above.

ARCHITECT:

DISTRICT:

\_\_\_\_\_

Walnut Creek School District

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

DRAFT

**ATTACHMENT "A"**

**TO ARCHITECTURAL SERVICES MASTER AGREEMENT**

**PROJECT ASSIGNMENT**

This PROJECT ASSIGNMENT is entered into the \_\_\_ day of \_\_\_\_\_, \_\_\_\_, between the WALNUT CREEK SCHOOL DISTRICT, ("DISTRICT") and \_\_\_\_\_ ("ARCHITECT") for architectural services in connection with the following project:

**[Insert project number, name and description]** (hereinafter "PROJECT").

**I. SCOPE OF SERVICES.**

The DISTRICT's and ARCHITECT's rights, duties and obligations hereunder will be performed in accordance with the terms and conditions of this WORK ORDER and the Master Architectural Services Agreement ("AGREEMENT"), dated \_\_\_\_\_, which terms and conditions are hereby incorporated by reference as if fully set out herein.

The ARCHITECT shall provide architectural and engineering services for PROJECT as follows:

**[Insert scope of services for particular project.]**

**II. ARCHITECT'S COMPENSATION.**

In consideration for the services performed hereunder, the DISTRICT agrees to compensate the ARCHITECT as follows:

A. The total ARCHITECT's fee for the services set forth in this WORK ORDER shall not exceed \$\_\_\_\_\_ without prior written approval from the DISTRICT ("Architect Fee").

B. Additional Architectural Services. Any services described in the AGREEMENT as an "Additional Services" shall be determined according to the Architect's Fee Schedule, which is attached hereto and hereby incorporated by reference as if fully set out herein. ARCHITECT agrees to provide to DISTRICT a proposal of Additional Services with ARCHITECT's proposed fee. Any such services and fees shall be mutually agreed to in writing by DISTRICT and ARCHITECT prior to the performance of such additional services.

C. Reimbursable Expenses: The Total Reimbursable Expenses as described in the AGREEMENT shall not exceed \$\_\_\_\_\_. Receipts for all reimbursable expenses must be included with the invoice to be considered for payment.

**[Add other terms as agreed to for reimbursable expenses.]**

III. PERIOD OF PERFORMANCE.

The ARCHITECT shall perform architectural and engineering services for the PROJECT according to the following schedule:

**[Insert Project schedule.]**

IV. **[INSERT OTHER TERMS AS NEEDED FOR A PARTICULAR PROJECT]**

The Parties, through their duly authorized representatives, have executed this WORK ORDER as of the day and year first written above.

[\_\_\_\_\_]

**Walnut Creek School District**

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

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

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

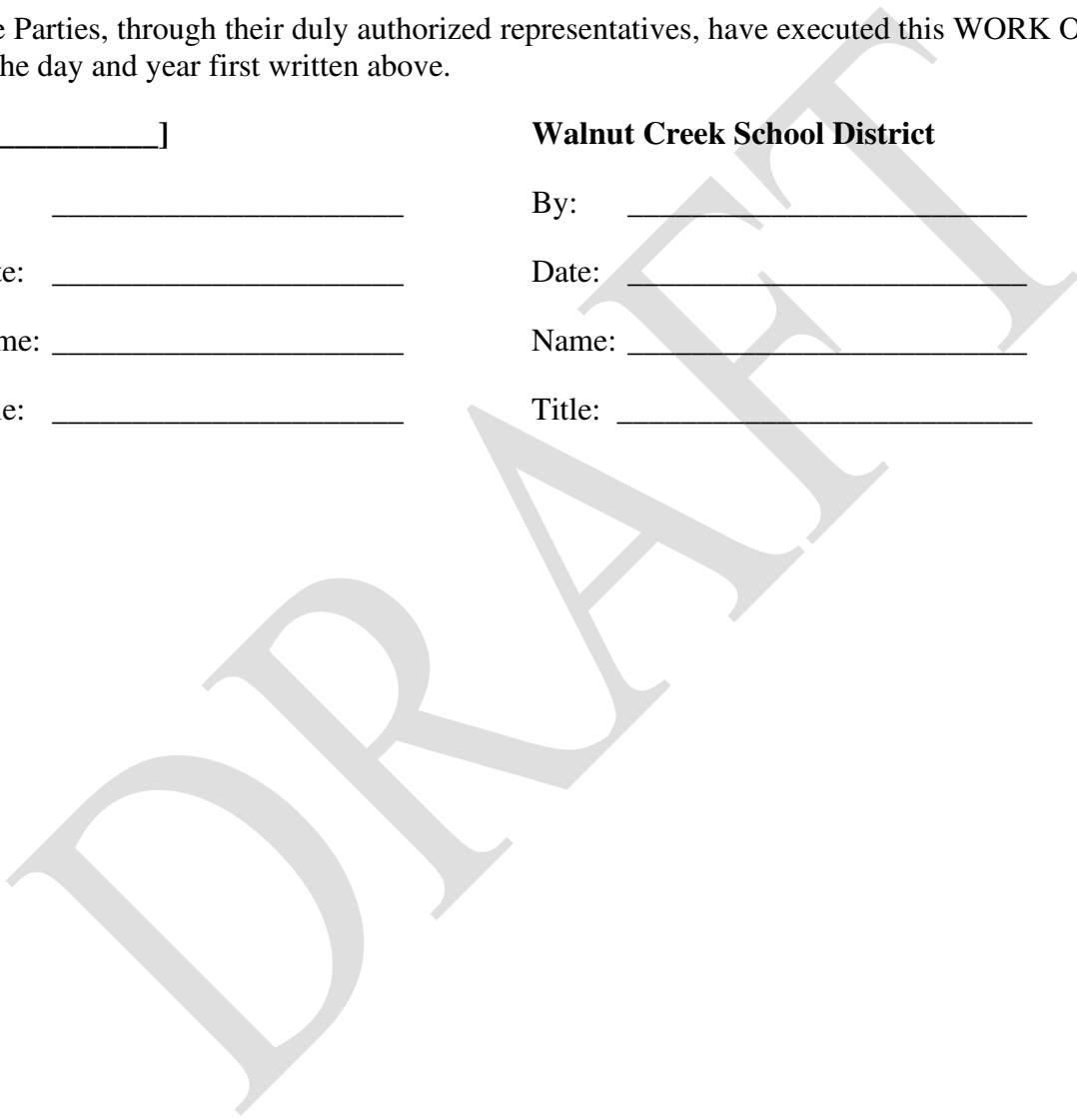
Date: \_\_\_\_\_

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

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

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

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



**TABLE OF CONTENTS**  
**(Continued)**

Page

**ATTACHMENT 2 – CONSULTANT QUESTIONNAIRE**

The Consultant shall furnish all the following information accurately and completely for the Consultant and each of the proposed staff. Failure to comply with this requirement may cause rejection of the Consultant's qualifications. Additional sheets may be attached if necessary. "You" or "your" as used herein refers to the Consultant and/or any of its owners, officers, directors, shareholders, parties or principals.

If the same information is provided elsewhere in your qualification and qualification materials, then please clearly identify such in the following questions.

Please be advised that the District may request verbal or written clarifications, additional information, an interview or presentation at any time regarding this questionnaire.

**SECTION A - GENERAL INFORMATION**

(1) Consultant name, address and contact information:

---

---

---

---

---

---

(2) Telephone: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Email and Internet Addresses: \_\_\_\_\_

(3) Type of business entity: (check one)

Individual \_\_\_\_\_ Partnership \_\_\_\_\_ Corporation \_\_\_\_\_

(4) Names and titles of all principals/officers of the Consultant:

Name	Title	Phone Number
_____	_____	_____
_____	_____	_____
_____	_____	_____

**TABLE OF CONTENTS**  
**(Continued)**

Page

---

(5) Please list any applicable certifications and licenses and their associated numbers:

\_\_\_\_\_

(6) Have you or any of your principals ever conducted similar services under a different name or certification or different license number? \_\_\_\_\_.

(a) If yes, give Consultant name, address and certification or license number.

Name

Address

License No. (if any)

(7) How many years has Consultant been in business under its present business name?

\_\_\_\_\_

(8) How many years of experience does Consultant have providing similar services?

\_\_\_\_\_

(9) For how many public agencies has Consultant provided similar services?

\_\_\_\_\_

(10) Please list the public agencies, including any school districts that Consultant has provided similar services for:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TABLE OF CONTENTS**  
**(Continued)**

Page

- (11) Please attach a short history of the Consultant including whether it is local, national, or international business entity, as well as approximate number of employees. Also provide the number of offices and locations.
- (12) Identify Architectural and Engineering Services performed for other school districts in accordance parameters described above.
- (13) Describe how Consultant has successfully provided Architectural and Engineering Services such as those described herein.
- (14) Describe the unique or innovative programming approaches utilized on previous projects.

**SECTION B - LEGAL**

- (15) Have you or any of your principals been in litigation or arbitration of any kind on a question or questions relating to similar services involving a school or community college district during the prior five (5) years? \_\_\_\_\_.

- (a) If yes, provide the name of the public agency and briefly detail the dispute:

---

---

---

---

- (16) Have you ever had a service agreement terminated for convenience or cause in the prior five (5) years? \_\_\_\_\_.

- (a) If yes, provide details including the name of the other party:

---

---

---

---

**TABLE OF CONTENTS**  
**(Continued)**

Page

(17) Is Consultant, owners, and/or any principal or manager involved in or is Consultant aware of any pending litigation regarding professional misconduct, bad faith, discrimination, or sexual harassment? \_\_\_\_\_.

(a) If yes, provide details:

---

---

---

---

(18) Is Consultant, owners, and/or any principals or manager involved in or aware of any pending disciplinary action and/or investigation conducted by any local, state or federal agency? \_\_\_\_\_.

(a) If yes, provide details:

---

---

---

---

(19) Does Consultant maintain errors and omissions coverage? \_\_\_\_\_.

If so, please provide a current copy of the declaration page showing the maximum liability or policy value.

(20) Will Consultant comply with all District, local, State and Federal legal requirements, regulations and laws? \_\_\_\_\_.

**SECTION C - ADDITIONAL INFORMATION**

(21) Please provide any other information that may assist the District in ascertaining

**TABLE OF CONTENTS**  
**(Continued)**

Page

your qualifications, capability and customer service under any resultant agreement.

**SECTION D – CONFLICT OF INTEREST**

(22) Have you ever had any direct or indirect business, financial or other connection with any official, employee or consultant of the District? Identify any conflict of interest in (a):

(a) Please elaborate and discuss any potential, apparent or actual conflict of interest:

---

---

---

---

I certify and declare under penalty of perjury under the laws of the State of California that the foregoing Consultant Questionnaire pages one through four is true and correct.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_,

State of \_\_\_\_\_

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name



**TABLE OF CONTENTS**  
**(Continued)**

Page

**ATTACHMENT 3 – FEE SCHEDULE AND REIMBURSABLE EXPENSES**

Fee proposal shall include the percentage of construction cost that shall be billed for projects when the method of compensation is determined to be by percentage of construction cost.

<b>Size</b>	<b>Construction Cost</b>	<b>Percentage of Architect's Fee</b>
<b>Small Projects</b>	<b>Under \$100,000</b>	
	<b>\$100,000 - \$500,000</b>	
	<b>\$500,000 - \$1,000,000</b>	
	<b>\$1,000,000 - \$3,000,000</b>	
<b>Medium Projects</b>	<b>\$3,000,000 - \$5,000,000</b>	
	<b>\$5,000,000 - \$7,500,000</b>	
	<b>\$7,500,000 - \$10,000,000</b>	
<b>Large Projects</b>	<b>Greater than \$10,000,000</b>	

**REIMBURSABLE EXPENSES**

Consultant(s) shall list the reimbursable expenses, if any, on a unit cost basis.

<b>Reimbursable Expense</b>	<b>Unit Cost</b>

The only reimbursements that will be paid to consultants shall be for actual cost of incidental materials and services authorized by the District. Reproduction of bidding

**TABLE OF CONTENTS**  
**(Continued)**

Page

documents shall be coordinated with the District printing vendor. Travel expenses and mileage are non-reimbursable.

**TABLE OF CONTENTS**  
**(Continued)**

**BILLING RATES**

Do rates include travel charges?

Yes

No

Job Title	Hourly Rate	Daily Rate (min - max)

\_\_\_\_\_  
Effective Dates of Rates

\_\_\_\_\_  
Signature

**NOTE:** All licensed professionals in responsible charge of the work **MUST** be directly employed by the responding Consultant and **NOT** employed as a Sub-Consultant. Consultant will **propose** an all-inclusive hourly fee for all Services describe in the RFQ. Consultant's proposed fee should include and account for all direct labor costs, fringe benefits, insurance, overhead, profit, and all other expenses the Consultant will incur in providing Services. All other Services not included herein shall be negotiated as required.



**TABLE OF CONTENTS**  
**(Continued)**

Page

**ATTACHMENT 5 – CONSULTANT'S CERTIFICATE REGARDING**  
**WORKERS' COMPENSATION**

Labor Code Section 3700:

"Every employer except the state and all political subdivisions or institutions thereof, shall secure the payment of compensation in one or more of the following ways:

- a. By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this State.
  
- b. By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workmen's Compensation or to undertake self-insurance in accordance with the provision of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Principal

\_\_\_\_\_  
Title

(In accordance with Article 5 [commencing at Section 1860], Chapter 1, Part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performance of any work under this contract.)