

# **SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT**



**REQUEST FOR PROPOSALS NO. 172  
FOR  
FULL SERVICE ARCHITECTURAL AND ENGINEERING  
SERVICES FOR TRACK IMPROVEMENTS**

**PROPOSALS DEADLINE DATE**

September 9, 2015 at 4:00 p.m.

**SUBMIT TO**

SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT  
Facilities Management/Maintenance & Operations Department  
956 W. 9<sup>th</sup> Street  
San Bernardino, California 92411  
Phone: (909) 388-6100  
Attention: **Jennifer Wilhelm**

## TABLE OF CONTENTS

Notice Calling for Proposals .....	Front Page
Table of Contents .....	p. 2
Purpose of the RFP .....	p. 3
Background on Project .....	p. 3
RFP Time Line .....	p. 3
Questions and Clarification of the RFP .....	p. 4
Contents of the Proposal.....	pp. 4 - 7
Preparation and Submittal of Proposal.....	pp. 8 - 10
Proposal Evaluation.....	p. 11
General Terms and Conditions.....	pp. 12 - 13
Exhibit A - Scope of Services	
Attachment 1 - Sample Agreement	
Attachment 2 - Firm Questionnaire	
Attachment 3 - Fee Proposal Sheet	
Attachment 4 - Equal Employment Opportunity Certification	
Attachment 5 - Firm's Certificate Regarding Workmen's Compensation	
Attachment 6 - Local Business Outreach Program (LBOP)	

**PURPOSE OF THE RFP:**

NOTICE IS HEREBY GIVEN that the San Bernardino City Unified School District (SBCUSD) Facilities Management Department acting by and through its Governing Board, hereinafter referred to as the DISTRICT, is soliciting and issuing this Request for Proposals (“RFP”) and will receive up to, but no later than **September 9, 2015 by 4:00 p.m.**, proposals (“proposal”) from interested individuals, firms and entities who can provide professional full service architectural and engineering services (“Services”) for track improvements. All qualified architectural and engineering firms described in the RFP, including local firms are encouraged to submit proposals.

Proposals must be submitted in a sealed envelope, addressed as indicated on the front page, with the name and address of the firm in the upper, left corner, under which should be clearly printed: **REQUEST FOR PROPOSALS NO. 172 – A/E SERVICES FOR TRACK IMPROVEMENTS**

**Note: Firms with existing master service agreements with the district for Architectural or Engineering services are required to submit a proposal in conformance with this RFP to be considered for selection.**

**BACKGROUND ON TRACK IMPROVEMENT PROJECT:**

The District intends to perform track improvement projects at Arroyo Valley High School, Cajon High School, Pacific High School, and San Bernardino High School. Currently, all schools have existing dirt tracks.

Improvements will include new synthetic or rubber track surfacing, concrete curbs as necessary, drainage improvements, bleacher improvements and repairs as necessary, any required accessibility improvements, and other appurtenant work. Where possible without significant cost impacts, the District desires installation of tracks that are nine (9) lanes wide. Certain tracks may be limited to no more than eight (8) lanes. It will be the selected consultant’s responsibility to recommend which facilities, if any, can accommodate nine (9) lanes.

**RFP TIMELINE\*:**

Request for Proposals Issued . . . . .	August 13, 2015
Deadline for Submittal of Questions . . . . .	August 27, 2015
Responses to the Questions Submitted . . . . .	September 2, 2015
<b>Due Date for Submittal of Proposals . . . . .</b>	<b>September 9, 2015 by 4:00 pm</b>
Anticipated Board Approval Date . . . . .	November 3, 2015
Notification of Selected Firm. . . . .	November 4, 2015

\* Dates are subject to change.

## **QUESTIONS AND CLARIFICATION OF THE RFP**

Questions, requests for explanation or clarifications of any kind in regard to this RFP shall be made in written form, submitted via email to Jennifer Wilhelm, Business Outreach Coordinator, at [jennifer.wilhelm@sbcusd.k12.ca.us](mailto:jennifer.wilhelm@sbcusd.k12.ca.us); by no later than 4:00 p.m., August 27, 2015.

The District will advise all firms known to have received a copy of the RFP of responses to the requests for explanation or clarification by email and on the Facilities website at [www.sbcusdfacilities.com](http://www.sbcusdfacilities.com) by the date indicated above; all firms are advised to check the Facilities website for any updates.

## **CONTENTS OF THE PROPOSAL**

Firms must submit one (1) original, two hard copies and a digital copy (on a compact disc "CD" or thumb drive) of the proposals. All proposals should address the following items in the order listed below. The proposal shall demonstrate the qualifications, competence and capacity of the firm:

1. **Cover Letter/Letter of Interest** - Include a cover letter, addressed to Jennifer Wilhelm, Business Outreach Coordinator, stating the eligibility of the firm to respond to this RFP, a brief description of the firm 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. **Firm's Data "Attachment 2"** – Each firm must completely answer the questions in Attachment 2 of the RFP. Note: **Questions may be answered in other sections of the proposal if clearly and conspicuously identified and referenced on the questionnaire.** The following shall be stated:
  - a. **Description of Firm** – Include a description of qualifications for providing design services on track and field related projects. Include information regarding the size of the company, location of the office from which the required services would be performed, nature of work performed, and years in this particular business. The Firm shall provide an affirmative statement that it is independent of the District as defined by generally accepted standards.
  - b. **Firm's Personnel and Staffing Resources** – Submit resume(s) or profiles for each principal, professional and sub-consultant staff who will be proposed to provide the requested services, including their qualifications 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 K-12 projects experience; (c) Professional registrations, certifications and affiliations (d) Project-specific experience with focus on track and field related projects, including dates and durations of each project listed and the name of firm where employed. Include an affirmative statement that the firm and all assigned key professional staff are currently licensed to perform the services and hold all proper business or other required licenses.

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. 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 firm'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 firm will provide services and fulfill the requirements and expectations of the District and this RFP. Use this section to address the ability of your company to undertake and accomplish the required scope of services while meeting any deadlines, the firm'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 firm's ability to provide architectural and engineering services exclusively and in a timely manner for the District and the firm's commitment to providing personnel assigned to District's Projects. Information should be furnished for both the respondent and any sub consultants included in the proposal.

**d. Experience** – Description of past performance of track and field improvement projects and related experience.

- i. Experience - Each firm shall state the number of years the firm has conducted business. Firms must have at least five (5) years' experience in providing the outlined scope of services for track and field projects, preferably K-12 Districts. Please provide at least three (3) references for K-12 Districts or other education institutions within the past five (5) years.
- ii. Project Specific Experience - Each firm shall provide a description of three (3) or more track and field projects designed by the firm. Preference will be given to architectural firms for K-12 projects within the last five years. Demonstrated projects should be in excess of \$10 million with full DSA approval. Please include the role of the firm, dollar value of the project, project description as well as the names of staff, relationship to client, and contact name and information including position, entity name, telephone number, and email address.

If applicable, specify the architectural and engineering services the firm 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 your firm. (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 track and field projects performed in the last five (5) years, including projects listed under Project 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 who and why it was requested.
  - g. **Customer Service Commitment** – Describe the firm’s philosophy and approach for providing outstanding customer service.
  - h. **Local Business Participation** – Describe the firm’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 and where the owner maintains an office in the City of San Bernardino or City of Highland. The District requires that at least ten (10) percent of all contracts for these services be set aside by the selected firm(s) for local businesses.
  - 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 firm or any employee of the firm is a party to an existing dispute with an owner, owner’s consultants or contractors, related to any project for which the firm provided architectural and engineering services. If so, please describe the nature of the dispute and its anticipated outcome.
- Identify if the firm 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** - Firms are encouraged to provide additional information or description of resources the firm feels is pertinent to the RFP. Respondents are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous material; appendices should be relevant and brief.
4. **Fee Proposal Sheet and Reimbursable Expenses “Attachment 3”** – The Respondent shall state in the table shown in Attachment 3, the total fixed fee for Architectural and Engineering services required under this RFP.
- a. **Fee Schedule:** Fee schedule will consist of a fixed fee for the design of the Track Improvements at Arroyo Valley, Cajon, Pacific and San Bernardino High Schools (see Attachment 3).
    - a. If the lowest bid falls below the budget, the Architect, at no additional cost, in consultation with and at the discretion of the District, shall provide such modifications in the Construction Documents as necessary to increase project scope while keeping the cost of the project within its budget.
    - b. If the lowest bid 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 forth by the District.
    - c. Design services for \$300,000 (for all four sites combined) in owner-

initiated or unforeseen contractor change orders shall be anticipated and included in the proposed fee.

- b. Rate Schedule:** Include proposed hourly rates for all disciplines to be assigned to the project including rates for sub-consultants such as civil, structural, electrical, plumbing and mechanical engineers, cost estimators, fire protection engineers, etc. These should be quoted as fully-burdened (e.g., direct labor + overhead + profit) hourly rates offered on a time-and- materials basis.
- c. Reimbursable Expenses:** The maximum charge for all reimbursable costs shall be an amount not-to-exceed ten (10) percent of the Contract Amount. Reproduction for District use shall be transmitted by selected firms to District's reproduction vendor. Proposals must list basis for all other reimbursable costs including markup, not to exceed 5%.

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

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

5. **Equal Employment Opportunity (EEO) Certification "Attachment 4"** – Each responding firm must certify that compliance with the federal EEO requirements is met.
6. **Worker's Compensation Insurance Certification "Attachment 5"** - Complete and sign the Worker's Compensation Insurance Certification form. Respondents 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 RFP.
7. **Local Business Outreach Program "Attachment 6"**– Firms are requested to submit the District's Local Business Outreach Program (LBOP) registration form. The District is using this form to monitor the participation of local professional service providers in the Facilities Capital Improvement Program. Copies of the LBOP registration form is attached hereto as Attachment 6.

At a minimum, the following documents will be required of the selected firms:

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

## **PREPARATION AND SUBMITTAL OF THE PROPOSAL**

### **Proposal Submittal and Deadline**

One original, two hard copies and a digital copy of the proposals must be submitted under sealed cover by no later than **4 p.m. on September 9, 2015**. Mark your company name, proposal title and RFP deadline on the outside of the sealed proposal envelope or box.

Proposals shall be delivered to the attention of:

Jennifer Wilhelm, Business Outreach Coordinator,  
Facilities Management Department,  
San Bernardino City Unified School District,  
956 W. 9<sup>th</sup> Street,  
San Bernardino, CA 92411  
[jennifer.wilhelm@sbcusd.k12.ca.us](mailto:jennifer.wilhelm@sbcusd.k12.ca.us);

**It is the sole responsibility of the firm submitting the proposal to ensure that their proposal and any amendments are actually received in the office prior to the deadline time and due date.** Unless this RFP is extended by a written amendment, proposals received after the time on the due date, will not be considered. Fax, email or telegraphic proposals will not be accepted.

### **Proposal Completeness**

Proposals shall be completed in all respects as required by the instructions herein. A proposal may be rejected if it is conditional or incomplete, or if it contains alterations of form or other irregularities of any kind. A proposal 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 proposal.

### **District Not Responsible For Preparation Costs**

All costs incurred in the preparation, submission and/or presentation of firms responding to the RFP including, but not limited to, the firm'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 proposal or contract preparation as a result of termination of this RFP or termination of the contract resulting from this RFP.

### **Right to Use Ideas**

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

### **Modification or Withdrawal Of RFP**

A firm may modify or withdraw a proposal after submission by written request of withdrawal and re-submission, provided that the proposal withdrawal is prior to the due date deadline specified.



### **Amendments**

Firms are advised that the District reserves the right to amend this RFP at any time. Amendments will be done formally by providing written amendments to all potential firms known to have received a copy of the RFP and/or by publishing the amendment on the Facilities website: [www.sbcusdfacilities.com](http://www.sbcusdfacilities.com).

### **Equal Opportunity**

The firm 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 RFP.

Firm shall not discriminate nor permit discrimination against any person because of race, color, religion, age, national origin, ancestry, creed, handicap, sexual orientation, union 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 firm 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 proposal.

### **Waiver or Breach Thereof**

No term or provision of this RFP 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 firm 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 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 firm, 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 in regard to the delivery of these services. Further, the successful firm (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 firm 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 RFP.

### **Independent Contractor**

The firm represents itself as an independent contractor offering such services to the general public and shall not represent him/herself or his/her employees to be an employee of the District. Therefore, the firm 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 Request for Proposals (RFP) and any amendments thereto, (2) the proposal submitted by the firm to the District in response to the RFP, and (3) the firm agreement included herein to be executed with the successful firm(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 firm, and such written clarification shall govern in case of conflict with the applicable requirements stated in the RFP or the firm's proposal. In all other matters not affected by the written clarification, if any, the RFP shall govern.

### **Compliance with Laws**

In connection with the furnishing of services or performance of work under this RFP, 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.

## **PROPOSAL EVALUATION, AWARD AND AGREEMENT**

### **Proposal Evaluation:**

A District Proposal Evaluation Committee will determine which, if any, proposal is in the District's overall best interest to accept. During the evaluation process, the District may request additional information, clarifications, explanations and answers from any proposing firm. The District may request any or all proposing firms to participate in a presentation and/or interviews in regards to their proposal. Invited firms will be required to set up and conduct a tour of its most representative work selection committee to review. The invited firms must be able to be available for the presentation and/or interviews within two days of the request, unless another date has been agreed upon.

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

### **Evaluation Criteria:**

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

1. **Proposal Packet** – Completeness and clarity of proposal content.
2. **Firm Qualifications, Experience & References** – Company size, years in business, licenses and certifications, etc. Experience and expertise of the firm in providing track and/or field related projects of comparable size and scope, especially a K-12 school district. A minimum of five (5) years of experience as a licensed architectural and engineering firm in the State of California with at least three (3) track and/or field related projects is required.
3. **Firm's Personnel and Staffing Resources** – Professional qualifications and specialized experience of the proposed staff including the quality of the firm's professional personnel to be assigned to District projects and the quality of the firm's management support personnel to be available for technical consultation and/or assistance; a percentage of the total score will be given to consulting firms that identify their plan for recruiting and utilizing local businesses within the boundaries of the City of San Bernardino and the City of Highland.
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. **Financial Stability, Local Businesses Participation and Customer Service** – The solvency of the responding firms, 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.
6. **Fee Schedule** – Fixed fee proposal as outlined in Attachment 3.

## **GENERAL TERMS AND CONDITIONS**

### **Local Businesses Participation**

The District is vitally interested in promoting the growth of small and local businesses within the boundaries of the District and the cities of San Bernardino and Highland by means of increasing the participation of these businesses in the District's purchase of goods and services. The District requires that at least ten (10) percent of all contracts for these services be set aside by the selected firm(s) for local businesses. 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 City and where the owner maintains an office. The firm will be required to certify on the invoices the names of local businesses utilized in any and all District assigned work.

### **District Obligation**

Receipt of proposals and responses to this RFP does not obligate the District in any way. The District reserves the right to accept or reject any or all proposals, to waive any irregularities or informalities in any proposal or in the RFP process.

### **Award of Contract**

This RFP implies no obligation to award contracts to any firm. If it is in the best interest of the District, the District retains the sole and absolute right to select the firm that best meets the District requirements. The award is subject to acceptance by the Governing Board of the San Bernardino City Unified School District. The District reserves the right to reject all proposals.

### **Approval to Start Work**

The successful firm 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 agreement and purchase order issuance by the District.

### **Ownership of Documents**

All proposals and materials submitted in response to this RFP 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 RFP shall be the sole property of District and may be used by District for any purposes without additional compensation to the selected firms. Selected firms agree 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 RFP, 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 firm 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.

### **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 firms having any contacts with students without any clearance from the State Department of Justice. All assigned personnel shall comply with the fingerprinting clearance law prior to providing services at the school sites.

## EXHIBIT A

### **SCOPE OF SERVICES** – Full Service Architectural and Engineering Services for Track Improvements at Arroyo Valley, Cajon, Pacific and San Bernardino High Schools.

Architectural and engineering services to be performed shall include the following:

- a. Review and incorporate all environmental clearance reports into the construction documents as needed.
- b. Review and incorporate of survey and utility investigations by District provided Surveyor.
- c. Coordinate and incorporate all geotechnical reports by the District provided Geotechnical firm. Data from aforementioned reports will be taken in consideration during the design phase.
- d. Prepare, coordinate, and inspect all required Storm Water Pollution Prevention Plan (SWPPP) Services required for this project. Provide SWPPP measures and include them in the Bid Documents.
- e. Review existing documentation before commencing design, verify existing field conditions related to the existing facilities and at the proposed site; verify the accuracy of any as-built documents obtained, and utilize this information in the preparation of the design documents.
- f. Prepare the design documents in accordance with the architectural and engineering services agreement and using the District's approved Design Standards. Define the scope of the project in terms of program requirements, Develop construction cost estimates. Address feasibility, site constraints and opportunities, permit requirements, and technical concerns such as site utilities.
- g. The design and construction phase services to be provided shall include, at minimum, schematic design, design development, construction documents, plan check and agency approval support, bid phase support, and construction administration and closeout.
- h. Prepare and provide all documents required for bid procurement (through coordination with District assigned Project Manager).
- i. Coordinate with and assist the District's representatives in the bid phase by preparing all necessary addenda and documents typically required from the architectural and engineering firms.
- j. Unless otherwise directed by the District, prepare and distribute meeting minutes held with the District, or government agencies. Prepare all design related project correspondence and documentation such as responses to RFIs, submittals, meeting minutes, letters, etc. utilizing the web-based Primavera Contract Management System from start of the design phase through completion of construction and project closeout. If needed, Primavera Contract Management training will be provided by the District along with user licenses at no charge.

- k. Submit design documents to, and obtain approval from, the District, Division of the State Architect (DSA) and other government entities and/or utility providers as required for plan checks and approvals and close-out certification.
- l. Prepare a detailed work plan indicating required and recommended meetings, milestones, deliverables and submittals, review timeframes, and critical actions or decisions required of the District. Make modifications and updates to the work plan as requested by the District.
- m. Prepare as-built drawings in CAD as furnished by the contractor.
- n. The design of the project shall meet all relevant requirements of the applicable jurisdictions, codes, and regulations, such as those of DSA, State Fire Marshall, City of San Bernardino or City of Highland, local Fire Departments, San Bernardino County Department of Public Works, State of California Building Codes, Americans with Disabilities Act, and other applicable requirements.
- o. Make formal project design presentations to the District, community groups (no more than two presentations), and the Board of Education if necessary.
- p. Retain sub-consultants, or have proven in-house expertise, for the following specialties to provide technical assistance in the development of the project.
  - 1. Civil Engineering
  - 2. Structural Engineering
  - 3. Environmental Services
  - 4. Construction Cost Estimating
  - 5. Bleacher Consultant
- q. Provide comprehensive management of every stage of the project, beginning with the original concept and project definition to yield the greatest possible benefit to District.
- r. Unless otherwise directed by the District, develop and define roles and responsibilities, handbooks/guidelines, commissioning plans, request for proposals (RFP), scopes of work, and contracts.

**ATTACHMENT 1**



***ARCHITECTURAL SERVICES AGREEMENT***

***BETWEEN***

***SAN BERNARDINO CITY UNIFIED SCHOOL DISTRICT***

***AND***

***[ENTER FIRM NAME]***

***FOR***

***[ENTER NAME OF SERVICES]***



## **Table of Contents**

### **Recitals**

<b>Article I</b>	<b>Architect's Services and Responsibilities</b>
<b>Article II</b>	<b>Scope of Architects Services</b>
<b>Article III</b>	<b>Additional Architect's Services</b>
<b>Article IV</b>	<b>District Responsibilities</b>
<b>Article V</b>	<b>Cost of Construction</b>
<b>Article VI</b>	<b>Estimate of Project Construction Costs</b>
<b>Article VII</b>	<b>Architect's Drawings and Specifications</b>
<b>Article VIII</b>	<b>Termination</b>
<b>Article IX</b>	<b>Accounting Records of the Architect</b>
<b>Article X</b>	<b>Compensation to the Architect</b>
<b>Article XI</b>	<b>Reimbursable Expenses</b>
<b>Article XII</b>	<b>Employees and Consultants</b>
<b>Article XIII</b>	<b>Miscellaneous</b>

# ARCHITECTURAL SERVICES AGREEMENT

This AGREEMENT is made and entered into this [REDACTED] day of [REDACTED] in the year 20[REDACTED] by and between the [REDACTED] SCHOOL DISTRICT, hereinafter referred to as "DISTRICT," and [REDACTED], 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 the [REDACTED], hereinafter referred to as the "PROJECT"; and

**WHEREAS**, ARCHITECT understands that state funding for this PROJECT is a condition precedent to the effectiveness of this AGREEMENT. If state funding is not received for the PROJECT, 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 - ARCHITECT'S SERVICES AND RESPONSIBILITIES**

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 PROJECT 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 PROJECT. 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 PROJECT 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 PROJECT 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 PROJECT shall be deemed to include and incorporate any revisions or updates thereto.

## **ARTICLE II - SCOPE OF ARCHITECT'S SERVICES**

1. 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 PROJECT. 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 PROJECT (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.

2. 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 (e.g., Dish Network), 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.

3. 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 PROJECT site and which are required for the PROJECT.

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

5. The ARCHITECT shall assist the DISTRICT in determining the phasing of the PROJECT that will most efficiently and timely complete the PROJECT. This includes phasing the PROJECT'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 PROJECT.

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

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

8. The ARCHITECT shall attend regular PROJECT coordination meetings between the ARCHITECT, its consultants, the DISTRICT's representative(s), and other consultants of the DISTRICT during PROJECT development.

9. 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.

10. The ARCHITECT shall provide services required due to programmatic changes in the PROJECT 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 PROJECT needs as opposed to optional items that may be dropped if there is inadequate Budget for the PROJECT. 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.

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

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

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

14. The ARCHITECT shall provide analyses of DISTRICT ownership and operating costs for the PROJECT.

15. 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.

16. To the extent the ARCHITECT is not familiar or does not have experience with any materials or systems designed for the PROJECT, 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 PROJECT.

17. The ARCHITECT shall cooperate and consult with DISTRICT in use and selection of manufactured items on the PROJECT, 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 PROJECT design and are in compliance with the requirements of Public Contract Code §3400.

18. 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 PROJECT 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 PROJECT's specifications that materials containing ACBM's shall not to be included or incorporated into the PROJECT. The ARCHITECT shall incorporate requirements into the PROJECT's specifications that indicate the above certification shall be part of the Contractor's final PROJECT submittal to the DISTRICT.

19. 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.

20. 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 PROJECT 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.

21. 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.

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

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

24. The ARCHITECT shall commit the same PROJECT 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.

25. 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 PROJECT under this AGREEMENT. The ARCHITECT shall not design for a Program or PROJECT 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 PROJECT'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 PROJECT, 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 PROJECT'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 PROJECT and PROJECT'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 PROJECT may be performed under separate construction contracts, phased construction contracts, or so that the construction of certain buildings, facilities, or other portions of the PROJECT 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 PROJECT 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 PROJECT 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 PROJECT 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 PROJECT 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.

#### 26. 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 PROJECT, and shall outline specifications to fix and illustrate the size, character, and quality of the entire PROJECT 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 PROJECT 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 PROJECT within all Budget and scope constraints set by the DISTRICT, unless otherwise modified by written authorization by the DISTRICT.

#### 27. Construction Document Phase (Final Plans)

d. 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 PROJECT setting forth, in detail, the requirements for the construction of the entire PROJECT 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 PROJECT. 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 PROJECT. All Construction Documents prepared by the ARCHITECT shall be properly coordinated including, but not limited to, the various disciplines, dimensions, terminology, details, etc.

e. The ARCHITECT shall prepare and file all documents required for, and obtain the required approvals of, all governmental agencies having jurisdiction over the PROJECT 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 PROJECT. 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.

f. 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 PROJECT 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 PROJECT, the ARCHITECT shall ensure that a copy of the approved DSA 103 for the PROJECT is provided to the DISTRICT, the Laboratory of Record, each Special Inspector working on the PROJECT, the Project Inspector and the Contractor.

g. 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.

h. 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.



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

j. As part of the ARCHITECT's professional services, ARCHITECT has coordinated the drawings on the PROJECT. 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).

k. If the estimated PROJECT 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.

## 28. Bidding & Award Phase

l. 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 PROJECT.

m. The ARCHITECT shall prepare all the necessary bidding information and bidding forms required to bid the PROJECT. 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 PROJECT 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 PROJECT. 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 PROJECT. 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 PROJECT.

n. The ARCHITECT shall deposit a reproducible set of Construction Documents including, but not limited to, all drawings and specifications for the PROJECT 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 PROJECT. 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 PROJECT 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 PROJECT (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.

o. 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 PROJECT and award a complete Contract to a successful bidder and shall deliver/distribute such printed copies to all interested bidders.

p. 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 PROJECT.

q. 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 PROJECT, 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 PROJECT within its Budget as set forth in Articles V and VI.

## 29. Construction Phase

r. Prior to the start of construction, the ARCHITECT shall certify that the following two 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.

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

t. 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.

u. 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 PROJECT 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 PROJECT prior to the commencement of any work by the Contractor on the PROJECT. 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 PROJECT at the ARCHITECT's expense.

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

w. 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 PROJECT's PIC's as applicable:

- (1) Initial Site Work;
- (2) Foundation;
- (3) Vertical Framing;
- (4) Horizontal Framing;
- (5) Appurtenances;
- (6) Non-Building Site Structures;
- (7) Finish Site Work;
- (8) Other Work; or
- (9) Final.

If the ARCHITECT has delegated responsibility for any portion of the PROJECT'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 PIC's as they relate to the portions of the PROJECT that were delegated to such engineers.

x. 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 PROJECT. 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.

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

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

(1) Visiting the PROJECT site to maintain such personal contact with the PROJECT 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 PROJECT and for the approval and sign off of each block/section of the PIC's during the course of the PROJECT'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 PROJECT;

(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 PROJECT reaches Substantial Completion;

(10) Determining date of Substantial Completion and the date of final completion of the PROJECT;

(11) Providing a color schedule of all materials for the PROJECT 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.

aa. 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.

bb. 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 PROJECT.

cc. 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.

dd. 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.

ee. 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 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.

ff. 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.

gg. 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.

hh. 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.

ii. 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.

jj. 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 certification of the PROJECT.

kk. After the PROJECT 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 PROJECT and shall determine which changes affect the Structural, Access or Fire & Life Safety (collectively "SAFLS") portions of the PROJECT 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 PROJECT. 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 PROJECT 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-Category B (Form DSA 141) 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 or CCD-Category B shall be documented through an alternative CCD form or other document approved by the DISTRICT.

ll. 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 PROJECT 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.

mm. 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.

nn. 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.

oo. The ARCHITECT shall inspect the PROJECT 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 PROJECT 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.

pp. 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 PROJECT, the ARCHITECT shall provide the DISTRICT and the Contractor with written notification of such defects, errors, or deficiencies.

qq. The ARCHITECT shall:

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

rr. The ARCHITECT shall be responsible for gathering information and processing forms required by any applicable governing agencies and/or authorities having jurisdiction over the PROJECT 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 PROJECT.

ss. The ARCHITECT shall obtain the DISTRICT's approval of all CCD 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.

tt. 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.

uu. 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.

vv. 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 PROJECT to be Substantially Complete. The ARCHITECT shall inspect the PROJECT, 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 PROJECT. 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 PROJECT 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 PROJECT 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 PROJECT 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 four (4) 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; and (4) the PROJECT is fit for occupancy and its intended use.

ww. Once the ARCHITECT has verified the Substantial Completion of the PROJECT, 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 PROJECT 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 PROJECT;
- (3) DSA requests a Verified Report.

xx. 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 PROJECT 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.

### 30. Project Close-Out

yy. Within thirty (30) days after the completion of the PROJECT'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 PROJECT'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.

zz. 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.

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

- (1) Copies of the Project Inspector's semi-monthly reports;
- (2) Copies of the laboratory reports on all tests or laboratory inspections as returned and done on the PROJECT;
- (3) Copies of all the necessary PIC's which have been approved and signed off by the Project Inspector for the certification by DSA; and
- (4) 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.

bbb. 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**

31. 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:

ccc. 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;

ddd. 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;

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

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

ggg. If the DISTRICT requests the PROJECT 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;

hhh. 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;

iii. Providing BIM documents that exceeds LOD 200; and

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

32. If authorized in writing by the DISTRICT, the ARCHITECT shall provide one or more PROJECT representatives to assist in carrying out more extensive representation at the site than is described in Article II. The PROJECT 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 PROJECT 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 PROJECT 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**

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

34. Prior to the Schematic Design Phase, the ARCHITECT shall prepare a current overall budget for the PROJECT which shall include the Construction Cost budget for the PROJECT. 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 PROJECT as set forth in this AGREEMENT.

35. 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 PROJECT. The DISTRICT shall observe the procedure of issuing any orders to Contractors only through the ARCHITECT.

36. The DISTRICT shall give prompt written notice to the ARCHITECT if the DISTRICT becomes aware of any fault or defect in the PROJECT 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 PROJECT.

37. 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.

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

## ARTICLE V - COST OF CONSTRUCTION

39. 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.

40. The PROJECT'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 PROJECT.

41. If the PROJECT 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.

42. 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.

43. The 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.

44. 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 PROJECT.

45. If the lowest bid received exceeds the Budget:

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

lll. The DISTRICT may authorize rebidding of the PROJECT within a reasonable time;

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

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

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

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

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

47. 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 PROJECT Construction Cost is affected by the labor and/or material market as well as other conditions beyond the control of the ARCHITECT or DISTRICT.

48. 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.

49. 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**

50. 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 this PROJECT, 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 PROJECT. 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 PROJECT site.

51. 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 PROJECT site. Prior to reuse of the ARCHITECT's documents for any project other than an addition, alignment, or other development on the PROJECT site, the DISTRICT agrees to notify the ARCHITECT in writing of such reuse.

### **ARTICLE VIII - TERMINATION**

52. 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 PROJECT.

53. 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.

54. 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.

55. 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 PROJECT 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 PROJECT on the date of termination and is consideration for entry into this termination for convenience clause.

56. 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 PROJECT has been completed, and not before.

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

57. Records of the ARCHITECT's direct personnel and reimbursable expenses pertaining to the services performed on this PROJECT 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:

58. 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.

59. 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, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion   |
| Design Development Phase: | No more than 15% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion   |
| Construction Docs Phase   | No more than 35% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid monthly based on actual level of completion   |
| DSA Approval Phase:       | No more than 5% of the estimated Architect Fee, as determined under Exhibit "A" to this AGREEMENT, to be paid upon DSA approval of the PROJECT including incorporation and approval of any back-check comments |

- Bidding Phase: No more than 2% of the estimated Architect Fee, as determined under Exhibit “A” to this AGREEMENT, to be paid monthly based on actual level of completion
- Construction Admin. Phase: No more than 25% of the actual Architect Fee, as determined under Exhibit “A” to this AGREEMENT and the accepted bid, 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 PROJECT is certified by DSA and the Notice of Completion has been recorded.

60. 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.

61. 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 PROJECT. 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.

62. When ARCHITECT’s Fee is based on a percentage of Construction Cost and any portions of the PROJECT are deleted or otherwise not constructed, compensation for those portions of the PROJECT 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.

63. 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**

64. 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:

ppp. 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

qqq. Approved agency fees.

65. Approved reimbursable expenses are estimated to be [REDACTED] Dollars (\$) [REDACTED] and this amount shall not be exceeded without the prior written approval of the DISTRICT. Reimbursable expense allowance is subject to adjustment pending definition of the Phase II scope as approved by the DISTRICT.

66. 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.

67. 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**

68. The ARCHITECT, as part of the ARCHITECT's basic professional services, shall furnish the consultant services necessary to complete the PROJECT 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 PROJECT's timely inspection and close-out as required by the applicable governmental

agencies and/or authorities having jurisdiction over the PROJECT including, but not limited to, DSA. The ARCHITECT shall ensure that its engineers and consultants observe the construction of the PROJECT during the course of construction, at no additional cost to the DISTRICT, to maintain such personal contact with the PROJECT 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).

69. The ARCHITECT shall submit, for written approval by the DISTRICT, the names of the consultants and/or consultant firms proposed for the PROJECT. 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 PROJECT if necessary. The ARCHITECT shall not assign or permit the assignment of any design professionals, engineers, or other consultants to the PROJECT 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.

70. 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.

71. The construction administrator or field representative assigned to the PROJECT by the ARCHITECT shall be licensed as a California Architect and able to make critical PROJECT 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**

72. 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 PROJECT 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.

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

rrr. 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

sss. General Liability. If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify 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 PROJECT, 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 that may be brought or instituted against the DISTRICT (other than professional negligence covered by Section c below), its officers, agents, or employees, that 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; and

ttt. Professional Liability. If arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the ARCHITECT, the ARCHITECT shall indemnify and hold the DISTRICT harmless from any loss, injury to, death of persons, or damage to property caused by any act, neglect, default, or omission of the ARCHITECT, or any person, firm, or corporation employed by the ARCHITECT, either directly or by independent contract, including all damages due to loss or theft, sustained by any person, firm, or corporation, including the DISTRICT, arising out of, or in any way connected with, the PROJECT, including injury or damage either 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 rather to reimburse the DISTRICT for attorneys' fees and costs incurred by the DISTRICT in defending such actions or proceedings brought against the DISTRICT that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the ARCHITECT.

uuu. 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 PROJECT. Any other indemnity that is attached to this AGREEMENT as part of any EXHIBIT shall be void and unenforceable between the PARTIES.

vvv. 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.

74. 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:

www. 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).

xxx. 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.

yyy. 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.

zzz. 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.

aaaa. 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; and, shall waive all rights of subrogation. ARCHITECT shall notify DISTRICT in the event of material change in, or failure to renew, 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.

bbbb. 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.

cccc. All insurance coverage amounts specified hereinabove shall cover only risks relating to, or arising out of, the PROJECT 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.

75. 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.

76. 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:

DISTRICT:

San Bernardino City Unified School District \_\_\_\_\_  
777 North "F" Street  
San Bernardino, CA 92410  
Attn: Samer Alzubaidi  
Telephone: (909) 388-6100  
Facsimile: (909) 885-9991

ARCHITECT:

\_\_\_\_\_  
\_\_\_\_\_, CA \_\_\_\_\_  
Attn: \_\_\_\_\_  
Telephone: (\_\_\_\_) \_\_\_\_-\_\_\_\_  
Facsimile: (\_\_\_\_) \_\_\_\_-\_\_\_\_

77. 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.

78. 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.

79. 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.

80. 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.

81. 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.

82. 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.

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

84. 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.

85. 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.

86. 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.

87. 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.

88. 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.



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

ARCHITECT:

DISTRICT:

\_\_\_\_\_

San Bernardino City Unified School District

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

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

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

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

APPROVED AS TO FORM:

Atkinson, Andelson, Loya, Ruud & Romo

\_\_\_\_\_  
Terry T. Tao, Esq.  
Hugh W. Lee, Esq.  
Attorneys for San Bernardino City Unified School District

**ATTACHMENT 2**

**FIRM QUESTIONNAIRE**

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

If the same information is provided elsewhere in your proposal 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 proposal.

**SECTION A – GENERAL INFORMATION**

(1) Firm name, address and contact information:

---

---

---

---

---

---

---

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

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

(3) Type of firm: (check one)

Individual                  Partnership                  Corporation                  State

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

Name    Title    Phone Number

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

(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 firm name, address and certification or license number.
- (i) Name \_\_\_\_\_
- (ii) Address \_\_\_\_\_
- (iii) License No. (if any) \_\_\_\_\_
- (7) How many years has your firm been in business under its present business name?  
\_\_\_\_\_.
- (8) How many years of experience does your firm have providing similar services?  
\_\_\_\_\_.
- (9) To how many public agencies has your firm provided similar services?  
\_\_\_\_\_
- (10) Please list the public agencies, including any school districts for whom your firm has provided similar services:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (11) Please attach a short history of the firm including whether it is local, national, or international as well as approximate number of employees. Also provide the number of firm offices and locations.
- (12) Please attach a copy of your firm's most recent financial statement or other financial instruments that would establish your firm's ability to complete its obligations under any agreement resulting from this RFP.
- (13) Describe plans to maintain effective schedule and budget management for projects.
- (14) Discuss the firm's experience in designing "green" schools, including references.
- (15) Describe the unique or innovative programming approaches utilized on previous projects.
- (16) Describe your plans to manage your responsibilities in the construction phase to maintain budget, schedule and quality of workmanship

## SECTION B – LEGAL

- (17) Have you or any of your principals been in litigation or arbitration of any kind on a question or questions relating to design 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:

---

---

---

---

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

(b) If Yes, provide details including the name of the other party:

---

---

---

---

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

(a) If Yes, provide details:

---

---

---

---

(20) Is your firm, 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:

---

---

---

(21) Does your firm maintain errors and omissions coverage? \_\_\_\_\_.

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

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

**SECTION C – ADDITIONAL INFORMATION**

(23) Please provide any other information that may assist the District in ascertaining your qualifications, capability and customer service under any resultant agreement.

**SECTION D - REFERENCES**

(24) 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 **Firm Questionnaire pages one (1) through four (4)** is true and correct.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2011, at  
\_\_\_\_\_, State of \_\_\_\_\_.  
City, County

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

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

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

### ATTACHMENT 3

#### FEE PROPOSAL SHEET AND REIMBURSABLES EXPENSES

**FEE PROPOSAL:**

Fee proposal shall include the fees for the design of the Track Improvements at each of the four sites listed below. Combined total fixed fee shall include the fee for the design of all four sites.

Project Name	Construction Estimate	Total Architectural and Engineering Fixed Fee
Arroyo Valley High School	\$1 Million	
Cajon High School	\$2 Million	
Pacific High School	\$2 Million	
San Bernardino High School	\$2 Million	
	<b>Combined Total Fixed Fee:</b>	

**REIMBURSABLE EXPENSES:**

Consultants shall list anticipated reimbursable expenses, if any, on a unit cost basis.

Reimbursable Expenses	Unit Cost (\$)

Total Reimbursable (not to exceed 10% of Fixed Fee): \_\_\_\_\_

Reimbursements:

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

**ATTACHMENT 4**

**EQUAL OPPORTUNITY CERTIFICATION**

To: San Bernardino City Unified School District  
956 W. 9<sup>th</sup> Street  
San Bernardino, CA 92411

Firm: \_\_\_\_\_

Street Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Telephone (\_\_\_\_\_) \_\_\_\_\_ FAX (\_\_\_\_\_) \_\_\_\_\_

Number of Employees \_\_\_\_\_

**This firm is:**

Independently Owned and Operated

An Affiliate of \_\_\_\_\_ Parent Company \_\_\_\_\_

A Subsidiary of \_\_\_\_\_ Address \_\_\_\_\_

A Division of \_\_\_\_\_

\*\*\*\*\*

This is to certify that we are an Equal Opportunity Employer and have made a good faith effort to improve minority employment.

\*\*\*\*\*

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**ATTACHMENT 5**

**FIRM 'S CERTIFICATE  
REGARDING WORKMEN'S 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 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.)





BUSINESS OUTREACH PROGRAM				
Company Information		Contact Information		
Company Name		Name	Title/Position	
Address		Cell phone	-	
City		Office phone	-	
State	Zip	Fax	-	
Web Address		E-mail		
Ownership Type (check type)	Firm Size	License(s)	Business Certification (check all that apply)	
<input type="checkbox"/> Sole Proprietor	Gross Revenue \$/yr	<input type="checkbox"/> A. General Engineering	<input type="checkbox"/> Small Business Enterprise (SBE)	
<input type="checkbox"/> Corporation	# of Employees:	<input type="checkbox"/> B. General Building	<input type="checkbox"/> Disabled Veteran-owned Business Enterprise (DVBE)	
<input type="checkbox"/> Partnership		<input type="checkbox"/> C. Specialty	<input type="checkbox"/> Minority-owned Business Enterprise (MBE)	
<input type="checkbox"/> Nonprofit			<input type="checkbox"/> Woman-owned Business Enterprise (WBE)	
<input type="checkbox"/> Other:			<input type="checkbox"/> Other:	
Services, Business Goods (check all that apply)				
<input type="checkbox"/> Architecture	<input type="checkbox"/> Environmental	<input type="checkbox"/> Inspection	<input type="checkbox"/> Special Construction	
<input type="checkbox"/> Communications/ IT	<input type="checkbox"/> Equipment	<input type="checkbox"/> Legal	<input type="checkbox"/> Specialties	
<input type="checkbox"/> Concrete	<input type="checkbox"/> Exterior Improvements (including landscape/irrigation)	<input type="checkbox"/> Masonry	<input type="checkbox"/> Surveying	
<input type="checkbox"/> Conveying systems	<input type="checkbox"/> Financial	<input type="checkbox"/> Metals	<input type="checkbox"/> Thermal and Moisture	
<input type="checkbox"/> Demo/Remediation	<input type="checkbox"/> Finishes	<input type="checkbox"/> Moving/Storage	<input type="checkbox"/> Utilities	
<input type="checkbox"/> Doors and Windows	<input type="checkbox"/> Fire Suppression	<input type="checkbox"/> Plumbing	<input type="checkbox"/> Woods and Plastics	
<input type="checkbox"/> Earthwork	<input type="checkbox"/> Furnishings	<input type="checkbox"/> Portable Facilities	<input type="checkbox"/> Other:	
<input type="checkbox"/> Electrical	<input type="checkbox"/> General Contracting	<input type="checkbox"/> Real Estate, Appraisal, Property Management		
<input type="checkbox"/> Engineering	<input type="checkbox"/> HVAC	<input type="checkbox"/> Safety and Security		
Local Business Outreach Profile (if applicable)				
<b>1. Local Business Identification</b>				
<input type="checkbox"/> Located in City of San Bernardino or Highland		<input type="checkbox"/> Located in San Bernardino County		
<b>2. How do you prefer to receive notices for SBCUSD opportunities?</b>				
<input type="checkbox"/> Telephone <input type="checkbox"/> Fax <input type="checkbox"/> E-mail				
<b>3. How do you normally receive notices for SBCUSD opportunities?</b>				
<input type="checkbox"/> District Website <input type="checkbox"/> Chamber <input type="checkbox"/> Trade Assoc. <input type="checkbox"/> Plan Room <input type="checkbox"/> Newspaper <input type="checkbox"/> Mail <input type="checkbox"/> Other:				

**VIEW VENDOR OPPORTUNITIES AT: [www.sbcusdfacilities.com](http://www.sbcusdfacilities.com)**  
 Mail, fax or email form to: SBCUSD Facilities Business Outreach Program  
 956 W 9<sup>th</sup> Street, San Bernardino, CA 92411  
 T (909) 388-6100 Fax (909) 885-9991 Email: [jennifer.wilhelm@sbcsud.k12.ca.us](mailto:jennifer.wilhelm@sbcsud.k12.ca.us)