

**MOUNTAIN EMPIRE UNIFIED  
SCHOOL DISTRICT**



**REQUEST FOR QUALIFICATIONS  
FOR  
ARCHITECTURAL SERVICES  
Reference #: 2223-1001**

**Issued: October 12, 2022**

**Due: November 9, 2022, at 4:00PM**

Prepared in consultation with:



5245 Avenida Encinas / Suite A / Carlsbad / CA / 92008  
P 760.602.9352 / C 714.402.9504 / F 760.602.9341  
[www.ehanda.com](http://www.ehanda.com)

## 1. GENERAL INFORMATION

The MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT (“District”) is requesting Statements of Qualifications for architect services.

- A. Each firm shall submit **Four (4) bound, one (1) unbound copies** of **Statement of Qualifications**, and **one (1) electronic version via thumb drive in Adobe Portable Document File** format prominently marked with **“Request for Qualifications, Architect Services – Reference No. 2223-001”** and the name of the firm submitting the SoQ. The Submitter must comply with the licensure requirements under Education Code section 17302 *et. seq.*
- B. RFQ/SoP shall be submitted to the District, as follows:
1. **Deadline for Submittal of Responses:**
    - i. **No later than 4:00PM on November 9, 2022**
    - ii. *Late Responses will be returned unopened.*
  2. **Method of delivery:**
    - i. **Send SoQ submittal package via USPS, FedEx, UPS, or other means of delivery with tracking**
    - ii. *Responses sent by Email or Facsimile (FAX) will not be accepted.*
  3. **Delivery Address:**

**Mountain Empire Unified School District  
3291 Buckman Springs Road  
Pine Valley, CA 91962  
ATTN: Business Services  
Gary Hobelman, Assistant Superintendent of Business  
RFQ-Architect Services – Reference #: 2223-1001**
- C. Submitters are required to disclose any relationships with the District and execute the non-collusion affidavit included with this RFQ.
- D. The original SoQ shall be submitted and ***signed in blue ink***, by an authorized individual or officer of the firm submitting the SoQ.
- E. Firms interested in submitting SoQs will not contact District Governing Board members, the Superintendent, Assistant Superintendents, or any other officials or staff of the District. The district may reject SoQs if a firm or its representatives make direct contact with the District. Firms are to contact:
- [tina@ehanda.com](mailto:tina@ehanda.com)  
(714) 402-9504
- F. All written questions received will be answered in writing and sent to all firms on the Interest List. ***Oral statements regarding this RFQ by any person(s) should be considered unverified information unless confirmed in writing. To ensure a response question must be received in writing by 4:00PM on October 31, 2022.***

- G. The Board of Education of the District reserves the right to accept or reject any or all SoQ submittals and to negotiate with any or all responsible submitters. Submitters shall be responsible for all expenses that they may incur in preparing SoQs.
- H. The District reserves the right to revise the RFQ up to and including **November 2, 2022** for issuance of clarifications and revisions to this RFQ. Revisions to the RFQ shall be sent to all firms on the Interest List. The District expressly reserves the right to extend the deadline by which SoQs are due.
- I. Architectural Services firms must complete the RFQ/SoQ process and be placed on the District's Pre-Qualified List before the District considers awarding any Project RFPs. Firms can opt to propose on either one, or both of the posted RFPs.

## **2. DESCRIPTION OF SERVICES REQUIRED**

### **A. Introduction**

The District will select a pool of professional firms to provide full architectural services for facilities planning and projects districtwide. Responses received from this RFQ will be used by the District as a foundation for the development of agreements and contracts with specific provisions subject to review and negotiations relative to the professional services to be provided.

### **B. Background on the District and Scope of Work**

The District is a TK-12 school District in Pine Valley, California. As of the 2021-22 school year, the District served approximately 4,042 students in the community in and around Pine Valley, California, in San Diego County.

The District has four elementary schools, two middle schools, one high school, and an Alternative Education Program,, and a District Office housing support and administrative facilities.

The District may utilize Responses to this Request to create a pool of architects for any future projects to include the selection of one or more architects for any capital and/or maintenance program projects that may include: modernization, expansion, new construction, reconstruction, alteration, rehabilitation, repair, relocation, reconfiguration, upgrades, closeouts, and other projects as may be identified, planned, modified, or prioritized/reprioritized, including DSA and Non-DSA projects, special studies, and other services as may be required. The District may also issue future solicitations that may augment or supersede this solicitation.

#### **Current Projects:**

- 1. Mountain Empire High School – Modernization/Reconstruction of campus facilities
- 2. Reconfiguration of existing buildings or construction of new classroom building(s) to provide various TK, PreK, and Full-Day Kindergarten Program(s) at the following sites – Campo ES, Clover Flatt ES, Descanso ES, and Potrero ES

It is anticipated that the District will select a pool of firms as well as contract with one or more firms under a Master Agreement(s). Thereafter, the District may ask for a Proposal to provide services for specific projects. The exact scope of design services for any particular project will be determined at a time in the future and will be set forth in an amendment to the Master Agreement between the District and the Architect. Entering into a Master Agreement with the District does not guarantee the assignment of future work.

### **3. ITEMS FOR INCLUSION IN STATEMENT OF QUALIFICATIONS**

All SoQ submittals shall address the following items in the order listed below and shall be identified in the submitted SoQ to match the following list:

- A. Description of Firm – (Page Limit=1) This section is to provide information regarding the size, location, nature of work performed, years in business, and approach that will be used in meeting the needs of the District.
- B. Description of Projects – (Page Limit=5) This section shall identify five (5) modernization projects that the firm has completed. Use this section of the SoQ to indicate the areas of expertise you have previously provided and how the firm's expertise will enable the District to benefit from that expertise. The District is requiring the firm(s) to have relevant experience in modernizing TK-12 schools. The SoQ shall include the following format:

<b>PROJECT NAME AND LOCATION</b>	<b>DISTRICT'S NAME, ADDRESS, CONTACT PERSON, EMAIL, AND TELEPHONE</b>	<b>COMPLETION DATE</b>	<b>PROJECT COST (above or below the project estimate)</b>	<b>COMMENTS</b>

- C. Background of Assigned Personnel – (Page limit=4) Provide total number of professional staff employed by the firm and the number of professional staff at the location from which staff will be assigned to the District. Identify persons that will be principally responsible for working with the District. Indicate the role and responsibility of each individual and their experience.
- D. Management of Workload – (Page limit=1) Explain how the firm manages the current and projected workload of the firm and the ability of the firm to undertake work from the District.
- E. Schedule – (Page limit=2) The SoQ shall include a projected schedule for a hypothetical Elementary School campus-wide modernization project with an 18-month construction time frame and a budget of \$20M in hard construction. Using the expertise of the firm and based upon the best information available at this time, the architect firm shall graphically demonstrate a schedule that depicts the number of days in duration with a start and finish date. The schedule shall include the following tasks estimating a final completion and occupancy date for the project:
  - 1. Planning and design through DSA approval
  - 2. CDE, CEQA, and ACPC compliance
  - 3. Bid Process
  - 4. Construction Administration
  - 5. DSA certification and close out

- F. Project Plan and Methodology – (Page limit=2) Briefly describe the procedures your architectural firm would use in conducting each task in the design of hypothetical modernization project described in section 3.E. above. Address the approach, schedule, and plan so that the project will flow is consistent with the schedule identified in section 3.E. above.
- G. Consultants – (Page limit=1) The SoQ shall list all consultants that are proposed to be used for District projects.
- H. Experience with Funding Options and Cost Estimating – (Page limit=2) The SoQ shall include the background, experience, and success of the individuals/consultants involved in the team regarding prioritizing projects, estimating costs, and successfully exploring alternative funding and financing.
- I. Fees – (Page limit=1) Describe the method proposed for charging fees.
- Client Reference List – (Page limit=1) Provide five (5) PK-12 references, including firm name, district name, contact person, and their position, who you have worked with in the past five (5) years. Four of the references can be for existing clients. However, one of the references must be for a client you no longer do work for. Please provide a written explanation as to why you no longer have a relationship with that client.
- J. Other – (Page limit=5) Each firm is encouraged to provide any additional information or description of resources the firm feels are pertinent to the SoQ.

#### 4. **SELECTION PROCESS and PROJECTED DATES**

The process and projected schedule the District will use in selecting a firm or firms to perform services will be as follows:

<b><u>Action</u></b>	<b><u>Date</u></b>
Release of Request for Qualifications/SoQs Posted	Wednesday, October 12, 2022
Last Day to Submit Questions for Clarification must be received at or before <b>4:00 PM</b>	Wednesday, October 31, 2022
Addenda Clarifications Issued by District	Wednesday, November 2, 2022
Deadline for Receipt of Responses must be received at or before <b>4:00 PM</b>	Wednesday, November 9, 2022
Screening/Evaluation, tentatively, via Teams	Tuesday, November 15, 2022
Notify Finalists of Interviews, if needed, tentatively	Monday, November 17, 2022
Interview of Finalists, if needed, tentatively, In-Person	Week of November 28, 2022
Issuance of Letters of Intent	Monday, December 5, 2022
Board Items/Recommendations due to District	Monday, December 5, 2022
Consideration by Governing Board of to authorize the establishment of a pool of Architectural Firms	Tuesday, December 13, 2022

## 5. EVALUATION

Although not necessarily exhaustive of the criteria to be utilized by the District, the District intends to use the following evaluation criteria in selecting Pre-Qualified Consultants. The evaluation criteria are as follows:

### 3.1. Timeliness and Completeness of SOQ

To receive maximum consideration, Architectural firm's SOQ must be received by the Response Deadline. In addition, Architectural firm's SOQ will be evaluated with respect to organization, clarity, completeness, and responsiveness to this RFQ.

### 3.2. Technical Qualifications and Competence

This includes experience, expertise, and familiarity with applicable laws and requirements for public works projects in general and school projects in particular.

### 3.3. Record of Past Performance

This includes work quality, completion of work on schedule, cost controls, contracts held with districts over the last 5 years as well as the response of references provided by the Architectural firm or any other references.

### 3.4. Approach to Work

This includes project management and coordination methodologies, analysis and study approaches and ability to respond to emergencies and delays.

### 3.5. Cost Control

This includes cost control procedures, preliminary cost estimates, personnel utilization, billing rates for personnel and Architectural firm's policies respecting the pass-through to the District of overhead costs.

Based on the District evaluation of the SOQs that the District receives, the District may select one or more Pre-Qualified Consultant. The District reserves the right to request that some or all of the respondents submit additional written information and/or that they consent to be interviewed by selected District personnel and/or representatives. The District also reserves the right to: (i) extend the Response Deadline, (ii) send out additional RFQs, (iii) reject any and all submittals, and/or (iv) provide for other mechanisms for Architectural firms to become Pre-Qualified to provide architectural services for the District. The District is not obligated to explain any deficiencies in their proposal, nor accept requests for justification from firms not selected.

#### A.

The selected Architect shall work under the direction of the Assistant Superintendent-Business Services. The Architect selected may work with a Construction Management (CM) firm to provide construction cost savings advice, conduct value engineering and constructability reviews, and recommend modifications to the plans for the project, to the District and the CM if necessary and as required. The District requires a full-service architect firm to provide planning, design, construction administration, and closeout services for its projects. Such services will require compliance with all legal and regulatory requirements to which public schools are subject now or in the future. Architectural service firms will be required to obtain DSA approval of plans and certification after completion, and other regulatory approvals (e.g., city/county, fire, health, etc.) as required, and assist the District with other required approvals. Architect must work cooperatively and collaboratively with Project teams, including District consultants and other architects. Architect will be required to attend meetings and assist with

presentations as needed (e.g. Board, agency, community, design committees, job walks, construction meetings, etc.as required). Architect will provide all needed architectural disciplines, engineers, and consultants (e.g. civil, structural, electrical, mechanical, plumbing, landscape, acoustical, food service, and others) as needed to provide a complete approvable and buildable set of plans, within its fee structure, unless exceptions are specifically agreed to in any contract entered into with the District.

**The District reserves the right to make selections on the basis of SoQs received. If interviews are held, the District reserves the right to determine the number of firms that will be requested to appear for an oral interview. PowerPoint-type presentations will not be permitted. Interviews will be discussion-based and will include an opportunity for the firm to present its qualifications and an opportunity for questions by the interviewing panel.**

Submission of SoQs by facsimile or email is not acceptable. The Submitter is entirely responsible for the means of delivering the SoQ to the appropriate office on time. Delays due to internal routing of misdirected SoQs or due to verbal directions given by District staff or any other reason shall be the responsibility of the Submitter. Thus, each SoQ must be completed and delivered in sufficient time to avoid disqualification for lateness due to difficulties in delivery.

## **LATE SUBMITTALS WILL NOT BE ACCEPTED.**

**Modifications of SoQs submitted by a Submitter after the deadline will not be considered unless specifically requested by the District.**

Each SoQ shall be reviewed to verify that the Submitter has met the minimum requirements of the RFQ. Submitters must follow the required format specified in this RFQ in order to facilitate District review.

The District reserves the right to cancel this RFQ at any time without any obligation whatsoever for SoQ preparation, interview, fee negotiation, or other costs associated with this RFQ or any SoQ submitted in response to this RFQ.

The District may reject any or all SoQs and/or may waive any minor deviation in any SoQ. The District's waiver of any minor defect shall in no way modify the RFQ documents or excuse the Submitter from compliance with the other provisions of this RFQ.

SoQs become the property of the District and may be returned only at the District's option and at the Submitter's expense. Information, excluding Submitter's financial information, contained therein shall become public documents subject to the Public Records Act.

### **REQUIRED SUBMITTAL DOCUMENTS:**

- A. **YOUR RESPONSES to “3. ITEMS FOR INCLUSION IN SOO”** This section is limited to 25 pages, 8 ½ x 11”, **single-sided** (table of contents and tab separators excluded)

### **B. REQUIRED ATTACHMENTS:**

#### **1. RFQ SOQ AND CERTIFICATION FORM**

Submitter shall return a Request for SoQ and Certification Form, fully executed in accordance with the Instruction to Submitters. SoQs for the Service will be

accepted as outlined in this RFQ. Submitter should include the specific costs for each item set forth in the Scope of Services and fees and rates should include all services. The fees shall include the cost of all labor, materials, equipment, supplies and space necessary.

**2. ARCHITECT FEE/REIMBURSABLE SCHEDULE FORM**

Submitter must list fees and reimbursable rates on this form.

**3. NON-COLLUSION DECLARATION FORM**

Submitter must return a fully executed Non-Collusion affidavit, as required by Public Contract Code section 7106, with the completed SoQ.

**4. CONTRACT AND ADDENDA FORM**

Submitter shall acknowledge receipt of the proposed form of the Agreement for Architect Services and any Addenda received.

**C. OPTIONAL PRESENTATION BROCHURE:**

This can contain descriptions, illustrations, photographs, etc., of school district projects, as an Appendix.

**OTHER INFORMATION:**

**NOTICE AND DISCLOSURE**

Notice and disclosure as required by Public Contract Code section 20103.6 is attached.

**RELATED DOCUMENTS AND INFORMATION**

Documentation associated with this RFQ, including the proposed form of agreement, may be viewed at:

**[INSERT DISTRICT WEBSITE LINK]**

# REQUEST FOR QUALIFICATIONS/SOQ – ARCHITECTURAL SERVICES

## SUBMITTAL AND CERTIFICATION

Board of Trustees  
Mountain Empire Unified School District  
3291 Buckman Springs Rd  
Pine Valley, CA 91962  
RE: Request for Qualifications – Architectural Services Purchasing No. 2223-1001

Dear Members of the Board of Trustees:

The undersigned, doing business under the firm name of

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, having carefully examined the Request for Qualifications, the Instructions, Specifications, proposes to perform the contract, including all of its component parts, and to furnish all services and taxes called for by them for the entire order, at the rates, costs, and prices as set forth in the attached: **ARCHITECTURAL SERVICES FEE/REIMBURSABLE SCHEDULE.**

I certify that all information contained in this Response is true and correct to the best of my knowledge and that I am authorized to submit this Response on behalf of the firm.

SUBMITTED BY:

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COMPANY

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ADDRESS

---

CITY/STATE/ZIP

---

SIGNATURE

---

PLEASE TYPE OR PRINT NAME

---

TITLE

---

DATE

---

PHONE

## ARCHITECTURAL SERVICES FEE/REIMBURSABLE SCHEDULE

<b>FIRM</b>	
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Contract Amount	Modernization Percentage Rate	New Construction Rate
<b>First \$500,000</b>		
<b>Next \$500,000</b>		
<b>Next \$1,000,000</b>		
<b>Next \$4,000,000</b>		
<b>Next \$4,000,000</b>		
<b>Next \$10,000,000</b>		
<b>Amount above \$20,000,000</b>		

(Insert percentage rates in each column)

Additional or Hourly Services	
Personnel Category	Rate

Reimbursables	
Item or Category	Markup Rate (if any)

**Alternate Fee Methodologies (if applicable) or other information-attach additional page if needed:**

# NON-COLLUSION DECLARATION FORM

State of California                    )  
  ) ss.  
County of San Diego                )

I, \_\_\_\_\_, being duly sworn,  
declare that I am \_\_\_\_\_

of \_\_\_\_\_, the party making the foregoing SoQ, that the SoQ is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the SoQ is genuine and not collusive or sham; that the Submitter has not directly or indirectly induced or solicited any other Submitter to put in a false or sham SoQ, and has not directly or indirectly colluded, conspired, connived, or agreed with any other Submitter or anyone else to put in a sham SoQ, or that anyone shall refrain from proposing; that the Submitter has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the SoQ price of the Submitter or any other Submitter, or to fix any overhead, profit, or cost element of the SoQ price, or of that of any other Submitter, or to secure any advantage against the public body awarding the contract or anyone interested in the proposed contract; that all statements contained in the SoQ are true; and further, that the Submitter has not, directly or indirectly, submitted his or her SoQ price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, SoQ depository, or to any member or agent thereof to effectuate a collusive or sham SoQ.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2022, at \_\_\_\_\_ California.

\_\_\_\_\_  
Signature

[This form must be notarized]

## ACKNOWLEDGEMENT OF RECEIPT OF CONTRACT AND ADDENDA

The undersigned acknowledges receipt of the proposed form of Agreement for Architect Services and the following Addenda. The cost, if any, of such Addenda revisions has been included in the rates and prices of your SoQ.

Proposed form of Agreement for Architect Services Dated October 12, 2022

Addenda Number \_\_\_\_\_ Dated \_\_\_\_\_

Addenda Number \_\_\_\_\_ Dated \_\_\_\_\_

Name of Submitter \_\_\_\_\_

Name of Authorized Signer: \_\_\_\_\_

Signature: \_\_\_\_\_

## NOTICE AND DISCLOSURE CONCERNING CONTRACT PROVISIONS

### Local Agency Public Construction Act - Public Contract Code 20103.6

(a) (1) any local agency subject to this chapter shall, in the procurement of architectural design services requiring an expenditure in excess of ten thousand dollars (\$10,000), include in any request for SoQs for those services or invitations to bid from a prequalified list for a specific project **a disclosure of any contract provision that would require the contracting architect to indemnify and hold harmless the local agency against any and all liability, whether or not caused by the activity of the contracting architect.** (2) **The disclosure statement shall be prominently set forth in bold type.**

(b) In the event a local agency fails to comply with paragraph (1) of subdivision (a), that local agency shall (1) be precluded from requiring the selected architect to agree to any contract provision requiring the selected architect to indemnify or hold harmless the local agency against any and all liability not caused by the activity of the selected architect, (2) cease discussions with the selected architect and reopen the request for SoQs or invitations to bid from a qualification list, or (3) mutually agree to an indemnity clause acceptable to both parties.

(c) This section shall become operative on July 1, 1998. (Added by Stats. 1997, Ch. 722, Sec. 1.)

**The proposed form of Agreement for Architect Services contains the following provision:**

#### **Indemnity.**

**To the fullest extent permitted by law, Architect shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Architect, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorneys' fees and other related costs and expenses. Architect's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Architect, the District, its officials, officers, employees, agents, or volunteers.**

**To the extent required by Civil Code section 2782.8, which is fully incorporated herein, Architect's obligations under the above indemnity shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect, but shall not otherwise be reduced. If Architect's obligations to defend, indemnify, and/or hold harmless arise out of Architect's performance of "design professional services" (as that term is defined under Civil Code section 2782.8), then upon Architect obtaining a final adjudication that liability under a claim is caused by the comparative active negligence or willful misconduct of the District, Architect's obligations shall be reduced in proportion to the established comparative liability of the District and shall not exceed the Architect's proportionate percentage of fault.**

**EXHIBIT 1 – REQUEST FOR QUALIFICATION (SoQ)**  
**ARCHITECTURAL SERVICES**

PROPOSED ARCHITECT MASTER AGREEMENT

DRAFT

**MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT**  
**MASTER AGREEMENT FOR ARCHITECTURAL SERVICES**

**1. Parties and Date**

This Master Agreement for Architectural Services (“Agreement”) is made and entered into this      day of **DATE, 2022**, by and between the **MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT**, a public school district organized under the laws of the State of California with its principal place of business at **3291 Buckman Springs Road, Pine Valley, California 91962** ("District") and [INSERT NAME OF ARCHITECT], [INSERT ADDRESS OF ARCHITECT] ("Architect"). The District and Architect are sometimes referred to individually as "Party" and collectively as "Parties" in this Agreement.

**2. Recitals**

2.1 The District is a public school district organized under the laws of the State of California, with power to contract for the services provided for herein.

2.2 The District intends to construct multiple school facilities within the District pursuant to its District-Wide Bond Program, which will be completed in one or more phases/components (collectively, the "Project").

2.3 The District requires the services of a duly qualified and licensed architect to perform the services on the Project as required by this Agreement. Architect represents that it is aware of the District's plans with respect to the Project.

2.4 This Agreement is intended to act as a “Master Agreement” for the Project and does not entitle the Architect to any specific assignment for any phase/component of the Project or to any specific compensation until such time as a mutually agreed upon written Amendment is entered into between the Parties to specifically assign Architect one or more individual components of the Project. A sample of said Amendment is attached hereto as **Exhibit “A”** and incorporated herein by reference. The mutually agreed upon Amendment shall set forth the scope of services, schedule, and compensation for any such assigned component of the Project. Except as specifically provided in the Amendment, all other terms and conditions of this Agreement remain in full force and effect for the provision of all services.

2.5 Architect warrants that it is fully licensed, qualified, and willing to perform the services required by this Agreement; provided, however, that if Architect is a corporation or other organization, the Project Architect designated pursuant to Section 3.2 herein, and not the Architect itself, shall be fully licensed to practice as an architect in the State of California.

2.6 The District desires to engage Architect to render the services for the Project as provided hereunder.

### 3. **Terms**

3.1 **Employment of Architect.** Architect promises and agrees to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work necessary to supply the professional architectural and related services necessary fully and adequately for the full and adequate completion of the Project consistent with the provisions of this Agreement (hereinafter referred to as the "Services"). The Services are more particularly described throughout this Agreement, including **Exhibit "B"** attached hereto and incorporated herein by reference. All Services shall be subject to, and performed in accordance with, this Agreement, any subsequent Amendments hereto, any exhibits attached hereto and incorporated herein by reference, and all applicable local, state, and federal laws, rules, and regulations. All Services performed by Architect shall be subject to the sole and discretionary approval of the District, which approval shall not be unreasonably withheld.

3.2 **Project Architect; Key Personnel.** Architect shall name a specific individual to act as the Project Architect, subject to the approval of the District. Architect hereby designates **[INSERT NAME OF INDIVIDUAL ARCHITECT]**, (License No. **[INSERT INDIVIDUAL'S LICENSE NUMBER]**) to act as the Project Architect for the Project. The Project Architect shall: (1) maintain oversight of the Project at all times; (2) have full authority to represent and act on behalf of the Architect for all purposes under this Agreement; (3) supervise and direct the Services using his or her best skill and attention; (4) be responsible for the means, methods, techniques, sequences and procedures used for the Services; (5) adequately coordinate all portions of the Services; and (6) act as principal contact with the District and all contractors, consultants, engineers and inspectors on the Project. Any change in the Project Architect shall be subject to the District's prior written approval, which approval shall not be unreasonably withheld. The new Project Architect shall be of at least equal competence as the prior Project Architect. In the event that the District and Architect cannot agree as to the substitution of a new Project Architect, the District shall be entitled to terminate this Agreement without any further liability to Architect.

In addition to the Project Architect, Architect has represented to the District that certain additional key personnel, engineers, and consultants will perform the Services under this Agreement. Should one or more of such personnel, engineers, or consultants become unavailable, Architect may substitute others of at least equal competence upon written approval of the District. In the event that the District and Architect cannot agree as to the substitution of key personnel, engineers, or consultants, the District shall be entitled to terminate this Agreement for cause. As discussed below, any personnel, engineers, or consultants who fail or refuse to perform the Services in a manner acceptable to the District, or who are determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project or a threat to the safety of persons or property, shall be promptly removed from the Project by Architect at the request of the District. The key additional personnel, engineers, and consultants for performance of this Agreement are as follows: **[INSERT NAMES AND TITLES OF KEY PERSONNEL]**.

### 3.3 **Hiring of Consultants and Personnel.**

3.3.1 **Right to Hire or Employ.** Architect shall have the option, unless the District objects in writing after notice, to employ at its expense architects, engineers, experts, or other consultants qualified and licensed to render services in connection with the planning and/or administration of the Project, and to delegate to them such duties as Architect may delegate without relieving Architect from administrative or other responsibility under this Agreement. Architect shall be responsible for the coordination and cooperation of Architect's architects, engineers, experts, or other consultants. All consultants, including changes in consultants, shall be subject to approval by the District in its sole and reasonable discretion. Architect shall notify the District of the identity of all consultants at least fourteen (14) days prior to their commencement of work in order to allow the District time to review their qualifications and decline consent to their participation on the Project if deemed necessary by the District in its sole and reasonable discretion.

3.3.2 **Qualification and License.** All architects, engineers, experts, and other consultants retained by Architect in performance of this Agreement shall be qualified to perform the Services assigned to them and shall be licensed to practice in their respective professions, where required by law.

3.3.3 **Standards and Insurance.** All architects, engineers, experts, and other consultants hired by Architect shall be required to meet all of the same standards and insurance requirements set forth in this Agreement, unless other standards or requirements are approved by the District in writing. Unless changes are approved in writing by the District, Architect's agreements with its consultants shall contain a provision making them subject to all provisions stipulated in this Agreement.

3.3.4 **Assignments or Staff Changes.** Architect shall promptly obtain written District approval of any assignment, reassignment, or replacement of such architects, engineers, experts, and consultants, or of other staff changes of key personnel working on the Project. As provided in the Agreement, any changes in Architect's consultants and key personnel shall be subject to approval by the District.

3.3.5 **Draftsman and Clerical Support.** Drafters and clerical personnel shall be retained by Architect at Architect's sole expense.

### 3.4 **Standard of Care; Performance of Employees.**

3.4.1 **Standard of Care.** Architect shall perform all Services under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by professionals qualified to perform the Services in the same discipline in the State of California, and shall be fully responsible to the District for any damages to the District and delays to the Project as specified in the indemnification provision of this Agreement to the extent caused by Architect. Architect represents and maintains that it is skilled in the professional calling necessary to perform the Services. Architect warrants that all of its employees, architects, engineers, experts, and other consultants shall have sufficient skill and experience to perform the Services assigned to them. Finally, Architect represents that it, its employees, architects, engineers,

experts, and other consultants have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Services assigned to or rendered by them, and that such licenses and approvals shall be maintained throughout the term of this Agreement. As provided for in the indemnification provisions of this Agreement, Architect shall perform, at its own cost and expense and without reimbursement from the District, any services necessary to correct errors or omissions which are caused by Architect's failure to comply with the standard of care provided for herein.

3.4.2 **Performance of Employees.** Any employee or consultant who is reasonably determined by the District to be uncooperative, incompetent, a threat to the adequate or timely completion of the Project, a threat to the safety of persons or property, or any employee or consultant who fails or refuses to perform the Services in a manner acceptable to the District, shall be promptly removed from the Project by Architect and shall not be re-employed to perform any of the Services or to work on the Project.

### 3.5 **Laws and Regulations.**

3.5.1 **Knowledge and Compliance.** Architect shall keep itself fully informed of and in compliance with all applicable local, state, and federal laws, rules and regulations in any manner affecting the performance of the Services or the Project and shall give all notices required of the Architect by law. Architect shall be liable, pursuant to the standard of care and indemnification provisions of this Agreement, for all violations of such laws and regulations in connection with its Services. If Architect performs any work knowing it to be contrary to such laws, rules, and regulations and without giving written notice to the District, Architect shall be solely responsible for all costs arising therefrom. Architect shall defend, indemnify, and hold the District, its officials, officers, employees, and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules, or regulations.

3.5.2 **Drawings and Specifications.** Architect shall cause all drawings and specifications to conform to any applicable requirements of federal, state and local laws, rules and regulations, including, but not limited to, the California Building Code, the California Education Code, Titles 19, 21 and 24 of the California Code of Regulations, and any requirements of the Division of State Architect (including structural safety, fire/life safety and access compliance section), the State Department of Education and the California Department of General Services, in effect as of the time the drawings and specifications are prepared or revised during the latest phase of the Services described in **Exhibit "B"** attached hereto and incorporated herein by reference. Any significant revisions made necessary by changes in such laws, rules, and regulations after this time, which were not known or reasonably should not have been known, by Architect, may be compensated as Additional Services. Architect shall cause the necessary copies of such drawings and specifications to be filed with any governmental bodies with approval jurisdiction over the Project, in accordance with the Services described in **Exhibit "B"** attached hereto and incorporated herein by reference. For the preparation of all such drawings and specifications, Architect shall use Computer Aided Design Drafting ("CADD") (e.g., AutoCAD) or other technology acceptable to Architect and the District.

3.5.3 **Americans with Disabilities Act.** Architect will use its best professional efforts to interpret all applicable federal, state, and local laws, rules, and regulations with respect to access, including those of the Americans with Disabilities Act ("ADA"). Architect shall inform the District of the existence of inconsistencies of which it is aware or reasonably should be aware between federal and state accessibility laws, rules, and regulations, as well as any other issues which are subject to conflicting interpretations of the law and shall provide the District with its interpretation of such inconsistencies and conflicting interpretations. Unless Architect brings such inconsistencies and conflicting interpretations to the attention of the District and requests the District's direction on how to proceed, Architect's interpretation of such inconsistencies and conflicting interpretations shall be the sole responsibility and liability of Architect, and Architect shall correct all plans, specifications and other documents prepared for the Project at no additional cost if its interpretations are shown to be incorrect. In the event that Architect brings such inconsistencies and conflicting interpretations to the attention of the District, seeks direction from the District and requests the District's direction on how to proceed, with respect to any inconsistent and/or conflicting interpretation, Architect shall be responsible to the District pursuant to the indemnification provision of this Agreement. The District acknowledges that the requirements of the federal and state accessibility laws are subject to various and possibly contradictory interpretations, and that Architect cannot warrant or guarantee that its interpretation will be correct and will be entitled to proceed in accordance with the District's direction. Architect shall at all times adhere to the standard of care provided for in this Agreement and will use its reasonable professional efforts and judgment in making its interpretations.

3.5.4 **Permits, Approvals and Authorizations.** Architect shall provide the District with a list of all permits, approvals or other authorizations required for the Project from all federal, state, or local governmental bodies with approval jurisdiction over the Project. Architect shall then assist the District in obtaining all such permits, approvals, and other authorizations. The costs of such permits, approvals, and other authorizations shall be paid by the District.

3.6 **Independent Contractor.** The District retains Architect on an independent contractor basis and Architect is not an employee of the District. Architect is not an employee for state tax, federal tax, or any other purpose, and is not entitled to the rights or benefits afforded to the District's employees. Any additional personnel performing the Services under this Agreement on behalf of Architect shall also not be employees of the District, and shall at all times be under Architect's exclusive direction and control. Architect shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of Services under this Agreement and as required by law. Architect shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

### 3.7 **Schedule of Services.**

3.7.1 **Timely Performance Standard.** Architect shall perform all Services hereunder as expeditiously as is consistent with professional skill and care, as well as the orderly

progress of the Project work so as not to be the cause, in whole or in part, of delays in the completion of the Project or in the achievement of any Project milestones, as provided herein. Specifically, Architect shall perform its Services so as to allow for the full and adequate completion of the Project within the time required by the District and within any completion schedules adopted for the Project as may be further defined in the Amendment(s) hereto. Architect agrees to coordinate with the District's staff, contractors, and consultants in the performance of the Services, and shall be available to the District's staff, contractors, and consultants at all reasonable times.

3.7.2 **Performance Schedule.** Architect shall prepare an estimated time schedule for the performance of the Architect's Services, to be adjusted as the Project proceeds. Such schedule shall be subject to the District's review and approval, which approval shall not be unreasonably withheld, and shall include allowances for periods of time required for the District's review and approval of submissions, and for approvals of authorities having jurisdiction over the Project approval and funding. If the District and Architect cannot mutually agree on a performance schedule, the District shall have the authority to immediately terminate this Agreement. The schedule shall not be exceeded by Architect, without the prior written approval of the District. If Architect's Services are not completed within the time provided by the agreed upon performance schedule, or any milestones established therein, it is understood, acknowledged, and agreed that the District will suffer damage for which Architect will be responsible pursuant to the indemnification provision of this Agreement.

3.7.3 **Excusable Delays.** Any delays in Architect's work caused by the following shall be added to the time for completion of any obligations of Architect: (1) the actions of the District or its employees; (2) the actions of those in direct contractual relationship with the District; (3) the actions of any governmental agency having jurisdiction over the Project; (4) the actions of any parties not within the reasonable control of Architect; and (5) any act of God or other unforeseen occurrence not due to any fault or negligence on the part of Architect. Neither the District nor Architect shall be liable for damages, liquidated or otherwise, to the other on account of such excusable delays.

3.7.4 **Request for Excusable Delay Credit.** Architect shall, within ten (10) calendar days of the beginning of any excusable delay, notify the District in writing of the causes of delay. The District will then ascertain the facts and the extent of the delay, and grant an extension of time for completing the Services when, in its sole judgment, the findings of fact justify such an extension. The District's findings of fact thereon shall be final and conclusive on the parties. Extensions of time shall apply only to that portion of the Services affected by the delay and shall not apply to other portions of the Services not so affected. The sole remedy of Architect for extensions of time shall be an extension of the performance time at no cost to the District. If Additional Services are required as a result of an excusable delay, the parties shall mutually agree thereto pursuant to the Additional Services provision of this Agreement. Should Architect make an application for an extension of time, Architect shall submit evidence that the insurance policies required by this Agreement remain in effect during the requested additional period of time.

3.8 **Architect Services.** Architect shall fully and adequately complete the Services described in this Agreement and in **Exhibit "B"** attached hereto and incorporated herein by reference as well as any specific requirements set forth in the Amendment(s) hereto.

3.9 **Additional Architect Services.** At the District's request, Architect may be asked to perform services not otherwise included in this Agreement, not included within the basic services listed in **Exhibit "B"** attached hereto and incorporated herein by reference, and/or not customarily furnished in accordance with generally accepted architectural practice. As used herein, "Additional Services" mean: (1) any work which is determined by the District to be necessary for the proper completion of the Project, but which the parties did not reasonably anticipate would be necessary for Architect to perform at the execution of this Agreement; or (2) any work listed as Additional Services in **Exhibit "B"** attached hereto and incorporated herein by reference. Architect shall not perform, nor be compensated for, Additional Services without prior written authorization from the District and without an agreement between the District and Architect as to the compensation to be paid for such services. The District shall pay Architect for any approved Additional Services, pursuant to the compensation provisions herein, so long as such services are not made necessary through the fault of Architect pursuant to the indemnification provision of this Agreement. Such Additional Services shall not include any redesign or revisions to drawings, specifications, or other documents when such revisions are necessary in order to bring such documents into compliance with applicable laws, rules, regulations, or codes of which Architect was aware or should have been aware pursuant to the laws and regulations provision of this Agreement above.

3.10 **District Responsibilities.** The District's responsibilities shall include the following:

3.10.1 **Data and Information.** As set forth in Section 2.4 above, this Agreement does not entitle the Architect to any specific compensation until such time as an Amendment hereto is entered into between the Parties. The District shall make available to Architect all necessary data and information concerning the purpose and requirements of the Project, including scheduling and budget limitations, objectives, constraints, and criteria. As part of the budget limitation information, the District shall provide Architect with a preliminary construction budget for any applicable component of the Project (the "District's Preliminary Construction Budget").

3.10.2 **Project Survey.** If required pursuant to the scope of the Project and if requested by Architect, the District shall furnish Architect with, or direct Architect to procure at the District's expense, a survey of the Project site prepared by a registered surveyor or civil engineer, any other record documents which shall indicate existing structures, land features, improvements, sewer, water, gas, electrical and utility lines, topographical information and boundary dimensions of the site, and any other such pertinent information.

3.10.3 **Inspector of Record.** Appoint and pay, upon mutual agreement with Architect, an Inspector of Record as provided by state law. The Inspector of Record shall be qualified and approved by Architect and by the Division of State Architect, shall be under direction of the Architect, and shall be responsible to, and act in accordance with, the policies of the District. The Inspector of Record shall be compensated by the District and shall be under direct contract with the District. The construction administration by Architect and its engineers or other consultants shall complement the continuous personal supervision of the Inspector of Record.

3.10.4 **Bid Phase.** Distribute Construction Documents to bidders and conduct the opening and review of bids for the Project.

3.10.5 **Testing.** Retain consultant(s) to conduct chemical, mechanical, soils, geological or other tests required for proper design of the Project, and furnish such surveys, borings, test pits, and other tests as may be necessary to reveal conditions of the site which must be known to determine soil condition or to ensure the proper development of the required drawings and specifications.

3.10.6 **Required Inspections and Tests.** Retain consultant(s) to conduct materials testing and inspection, as required by Title 21 of the California Code of Regulations, or to conduct any other environmental or hazardous materials testing and inspection pursuant to any other applicable laws, rules, or regulations.

3.10.7 **Fees of Reviewing or Licensing Agencies.** Directly pay or reimburse the payment of all fees required by any reviewing or licensing agency, or other agency having approval jurisdiction over the Project.

3.10.8 **District's Representative.** Designate a person to act as its representative for the performance of this Agreement (the "District's Representative"). The District's Representative shall be authorized to act as liaison between Architect and the District in the administration of this Agreement and the Construction Documents, and shall have the power to act on behalf of the District for all purposes under this Agreement. Such person shall assist Architect in observing construction of the Project and participating in the preparation of the Punch List Items required by **Exhibit "B"** attached hereto and incorporated herein by reference. The District may designate new and/or different individuals to act as the District's Representative from time to time. The District's Representative shall render decisions in a timely manner so as to avoid unreasonable delay in the orderly and sequential progress of the Services, as provided in the excusable delay provisions of this Agreement above.

3.10.9 **Review and Approved Documents.** Review all documents submitted by Architect, including change orders and other matters requiring approval by the District's Governing Board or other officials. The District shall advise Architect of decisions pertaining to such documents within a reasonable time after submission, so as not to cause unreasonable delay as provided in the excusable delay provisions of this Agreement above.

### 3.11 **Compensation.**

3.11.1 **Architect's Compensation for Basic Services.** As set forth in Section 2.4 above, this Agreement does not entitle the Architect to any specific compensation until such time as an Amendment hereto is entered into between the Parties in order to specifically assign Architect one or more individual components of the Project. The Architect's compensation for any such component shall be clearly established in the applicable Amendment(s) upon mutual written agreement.

3.11.2 **Payment for Additional Services.** Additional Services may be authorized pursuant to the applicable provisions of this Agreement and subsequent Amendment. If authorized, such Additional Services will be compensated at the rates and in the manner set forth in **Exhibit "C"** attached hereto and incorporated herein by reference, unless a flat rate or some other form of compensation is mutually agreed upon by the parties. Architect shall be paid for Additional Services, as defined by this Agreement and subsequent Amendment, so long as they have been approved in advance by the District. If the District requires Architect to hire consultants to perform any Additional Services, Architect shall be compensated therefore at the rates and in the manner set forth in **Exhibit "C"** attached hereto and incorporated herein by reference, unless a flat rate or some other form of compensation is mutually agreed upon by the Parties. The District shall have the authority to review and approve the rates of any such consultants. In addition, Architect shall be reimbursed for any expenses incurred by such consultants pursuant to the terms and conditions of Section 3.11.3.

3.11.3 **Reimbursable Expenses.** Reimbursable expenses are in addition to compensation for the Services and Additional Services. Architect shall not be reimbursed for any expenses unless authorized in writing by the District, which approval may be evidenced by inclusion in **Exhibit "C"** attached hereto and incorporated herein by reference. Such reimbursable expenses shall include only those expenses which are reasonably and necessarily incurred by Architect in the interest of the Project. Architect shall be required to acquire prior written consent in order to obtain reimbursement for the following: (1) extraordinary transportation expenses incurred in connection with the Project; (2) out-of-town travel expenses incurred in connection with the Project; (3) fees paid for securing approval of authorities having jurisdiction over the Project; (4) bid document duplication costs in excess of \$0; and (5) other costs, fees and expenses in excess of \$0.

3.11.4 **Payment to Architect.** Consistent with the terms of an Amendment executed by the Parties regarding compensation, Architect's compensation and reimbursable expenses shall be paid by the District to Architect no more often than monthly. Such periodic payments shall be made based upon the percentage of work completed, and in accordance with the schedule agreed to by the Parties in a subsequent Amendment hereto. In order to receive payment, Architect shall present to the District an itemized statement which indicates the Services performed, percentage of the Services completed, method for computing the amount payable, and the amount to be paid. The statement shall describe the amount of the Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement, as well as those expenses for which reimbursement is requested for that statement period. The amount paid to Architect shall never exceed the percentage amounts authorized by the phasing and funding schedule agreed to by the Parties in a subsequent Amendment hereto. The District shall, within thirty (30) days of receiving such statement, review the statement and pay all approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the Parties in a mutually agreeable manner.

Payments made for the Additional Services shall be made in installments, not more often than monthly, proportionate to the degree of completion of such services or in such other manner as the parties shall specify when such services are agreed upon, and in accordance with any authorized fee or rate schedule. In order to receive payment, Architect shall present to the

District an itemized statement which indicates the Additional Services performed, percentage of the Additional Services completed, method for computing the amount payable, and the amount to be paid. The statement shall describe the amount of the Additional Services provided since the initial commencement date, or since the start of the subsequent billing periods, as appropriate, through the date of the statement. The District shall, within thirty (30) days of receiving such statement, review the statement and pay all approved charges thereon pursuant to the provisions of Civil Code Section 3320. Disputed amounts shall be resolved by the Parties in a mutually agreeable manner.

Upon cancellation or termination of this Agreement, Architect shall be compensated as set forth in the termination provision herein.

**3.11.5 Withholding Payment to Architect.** The District may withhold payment, in whole or in part, to the extent reasonably necessary to protect the District from claims, demands, causes of action, costs, expenses, liabilities, losses, damages, or injuries of any kind to the extent arising out of or caused by the negligence, recklessness, or willful misconduct protected under the indemnification provisions of this Agreement. Failure by the District to deduct any sums from a progress payment shall not constitute a waiver of the District's right to such sums. The District may keep any moneys which would otherwise be payable at any time hereunder and apply the same, or so much as may be necessary therefor, to the payment of any expenses, losses, or damages as determined by the District, incurred by the District for which Architect is liable under the Agreement or state law. Payments to Architect for compensation and reimbursable expenses due shall not be contingent on the construction, completion, or ultimate success of the Project. Payment to Architect shall not be withheld, postponed, or made contingent upon receipt by the District of offsetting reimbursement or credit from parties not within Architect's reasonable control.

**3.11.6 Prevailing Wages.** Architect is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., as well as California Code of Regulations, Title 8, Section 16000 et seq. ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects. Since the Services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, and since the total compensation is \$1,000 or more, Architect agrees to fully comply with and to require its consultants to fully comply with such Prevailing Wage Laws. The District shall provide Architect with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement. Architect shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at Architect's principal place of business and at the Project site. Architect shall defend, indemnify, and hold the District, its elected officials, officers, employees, and agents free and harmless from any claims, liabilities, costs, penalties, or interest arising out of any failure or alleged failure of Architect or its consultants to comply with the Prevailing Wage Laws.

**3.11.7 DIR Registration.** If any portion of the Services provided by Architect are classified as "public works" under the Labor Code, then in addition to the foregoing, pursuant to Labor Code sections 1725.5 and 1771.1, Architect and all applicable subcontractors/subconsultants must be registered with the Department of Industrial Relations

(“DIR”). Architect and all such subcontractors/subconsultants shall maintain registration for the duration of the Project and require the same of any other subcontractors. This Project may also be subject to compliance monitoring and enforcement by the DIR. It shall be Architect’s sole responsibility to comply with all applicable registration and labor compliance requirements, including the submission of certified payroll records directly to the DIR.

3.12 **Notice to Proceed.** As described in Section 2.4 above, Architect shall not proceed with performance of any of the Services under this Agreement unless and until the Parties execute an Amendment for a specific component of the Project and the District provides a written notice to proceed.

3.13 **Termination, Suspension and Abandonment.**

3.13.1 **District's Termination for Convenience.** The District hereby reserves the right to suspend or abandon, at any time and for any reason, all or any portion of the Project and the construction work thereon, or to terminate this Agreement at any time with or without cause. Architect shall be provided with at least seven (7) days advanced written notice of such suspension, abandonment, or termination. In the event of such suspension, abandonment, or termination, Architect shall be paid for the Services and reimbursable expenses rendered up to the date of such suspension, abandonment, or termination, less any claims against or damages suffered by the District as a result of the default, if any, by Architect. Upon the District's request and authorization, Architect shall perform any and all additional Services necessary to wind up the work performed to the date of suspension, abandonment, or termination. Architect hereby expressly waives any and all claims for damages or compensation arising under this Section, except as set forth herein, in the event of such suspension, abandonment or termination.

3.13.2 **Architect's Termination for Cause** This Agreement may be terminated by Architect upon fourteen (14) days written notice to the District only when the District has substantially failed to perform its obligations under this Agreement. The written notice shall include a description of the District’s failure to perform, status of the work completed as of the date of termination, together with a description and a cost estimate of the effort necessary to complete work in progress. In such event, Architect shall be compensated for the Services completed to the date of termination, together with compensation for such Additional Services performed after termination which are authorized by the District to wind up the work performed to the date of termination. Upon the District's request and authorization, Architect shall perform any and all Additional Services necessary to wind up the work performed to the date of termination.

3.13.3 **District's Suspension of Work.** If Architect's Services are suspended by the District, the District may require Architect to resume such Services within ninety (90) days after written notice from the District. When the Project is resumed, the compensation and schedule of Services shall be equitably adjusted upon mutual agreement of the District and Architect.

3.13.4 **Documents and Other Data.** Within seven (7) calendar days following suspension, abandonment, or termination of this Agreement, Architect shall provide to the District all preliminary studies, sketches, working drawings, specifications, computations, and all other

Project Documents, as defined below, to which the District would have been entitled at the completion of Architect's Services under this Agreement. Upon payment of the amount required to be paid to Architect pursuant to the termination provisions of this Agreement, the District shall have the right, as provided in this Agreement hereinafter, to use such Project Documents prepared by or on behalf of Architect under this Agreement. In the event of a dispute regarding the amount of compensation to which Architect is entitled under the termination provisions of this Agreement, Architect shall provide all Project Documents to the District upon payment of the undisputed amount. Architect shall have no right to retain or fail to provide to the District any such documents pending resolution of the dispute. Architect shall make such documents available to the District without additional compensation other than as may be approved as a reimbursable expense.

3.13.5 **Employment of Other Architects.** In the event this Agreement is terminated in whole or in part as provided herein, the District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

### 3.14 **Ownership and Use of Documents; Confidentiality.**

3.14.1 **Ownership.** Pursuant to California Education Code section 17316 and the requirements of the District, all plans, specifications, original or reproducible transparencies of working drawings and master plans, preliminary sketches, architectural presentation drawings, structural computations, estimates and any other documents prepared pursuant to this Agreement, including, but not limited to, any other works of authorship fixed in any tangible medium of expression such as writings, physical drawings and data magnetically or otherwise recorded on computer diskettes (hereinafter referred to as the "Project Documents") shall be and remain the property of the District. Although the official copyright in all Project Documents shall remain with Architect or other applicable subcontractors or consultant, the Project Documents shall be the property of the District whether or not the work for which they were made is executed or completed. Within thirty (30) calendar days following completion of the Project, Architect shall provide to the District copies of all Project Documents required by the District. In addition, Architect shall retain copies of all Project Documents on file for a minimum of fifteen (15) years following completion of the Project, and shall make copies available to the District upon the payment of reasonable duplication costs. Before destroying the Project Documents following this retention period, Architect shall make a reasonable effort to notify the District and provide the District with the opportunity to obtain the documents.

3.14.2 **Right to Use.** Architect grants to the District the right to use and reuse all or part of the Project Documents, at the District's sole discretion and with no additional compensation to Architect, for the following purposes:

- (A) The construction of all or part of this Project;
- (B) The repair, renovation, modernization, replacement, reconstruction, or expansion of this Project at any time;
- (C) The construction of another project by or on behalf of the District for its ownership and use;

The District is not bound by this Agreement to employ the services of Architect in the event such documents are used or reused for these purposes. The District shall be able to use or reuse the Project Documents for these purposes without risk of liability to Architect or third parties with respect to the condition of the Project Documents, and the use or reuse of the Project Documents for these purposes shall not be construed or interpreted to waive or limit the District's right to recover for latent defects or for errors or omissions of Architect.

Any use or reuse by the District of the Project Documents on any project other than this Project without employing the services of Architect shall be at the District's own risk with respect to third parties. If the District uses or reuses the Project Documents on any project other than this Project, it shall remove Architect's seal from the Project Documents and hold harmless Architect and its officers, directors, agents, and employees from claims arising out of the negligent use or re-use of the Project Documents on such other project.

Architect shall not be responsible or liable for any revisions to the Project Documents made by any party other than Architect, a party for which Architect is legally responsible or liable, or anyone approved by Architect.

3.14.3 **License**. This Agreement creates a non-exclusive and perpetual license for the District to copy, use, modify or reuse any and all Project Documents and any intellectual property rights therein. Architect shall require any and all subcontractors and consultants to agree in writing that the District is granted a non-exclusive and perpetual license for the work of such subcontractors or consultants performed pursuant to this Agreement.

3.14.4 **Right to License**. Architect represents and warrants that Architect has the legal right to license any and all copyrights, designs and other intellectual property embodied in the Project Documents that Architect prepares or causes to be prepared pursuant to this Agreement. Architect shall indemnify and hold the District harmless pursuant to the indemnification provisions of this Agreement for any breach of this Section. Architect makes no such representation and warranty in regard to previously prepared designs, plans, specifications, studies, drawings, estimates or other documents that were prepared by design professionals other than Architect and provided to Architect by the District.

3.14.5 **Confidentiality**. All Project Documents, either created by or provided to Architect in connection with the performance of this Agreement, shall be held confidential by Architect to the extent they are not subject to disclosure pursuant to the Public Records Act. All Project Documents shall not, without the written consent of the District, be used or reproduced by Architect for any purposes other than the performance of the Services. Architect shall not disclose, cause, or facilitate the disclosure of the Project Documents to any person or entity not connected with the performance of the Services or the Project. Nothing furnished to Architect which is otherwise known to Architect or is generally known, or has become known, to the related industry shall be deemed confidential. Architect shall not use the District's name or insignia, photographs of the Project, or any publicity pertaining to the Services or the Project in any magazine, trade paper, newspaper, television or radio production or other similar medium without the written consent of the District.

3.15 **Indemnification**. To the fullest extent permitted by law, Architect shall defend (with counsel of District's choosing), indemnify and hold the District, its officials, officers, employees, volunteers, and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, in any manner arising out of, pertaining to, or incident to any acts, errors or omissions, or willful misconduct of Architect, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Services, the Project or this Agreement, including without limitation the payment of all damages, expert witness fees and attorneys' fees and other related costs and expenses. Architect's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Architect, the District, its officials, officers, employees, agents, or volunteers.

To the extent required by Civil Code section 2782.8, which is fully incorporated herein, Architect's obligations under the above indemnity shall be limited to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Architect, but shall not otherwise be reduced. If Architect's obligations to defend, indemnify, and/or hold harmless arise out of Architect's performance of "design professional services" (as that term is defined under Civil Code section 2782.8), then upon Architect obtaining a final adjudication that liability under a claim is caused by the comparative active negligence or willful misconduct of the District, Architect's obligations shall be reduced in proportion to the established comparative liability of the District and shall not exceed the Architect's proportionate percentage of fault.

3.16 **Insurance**.

3.16.1 **Time for Compliance**. Architect shall not commence any of the Services under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this Section. In the event Architect fails to provide or maintain all required insurance, the District may, in its sole discretion, obtain such insurance and deduct the amount therefor from Architect's compensation.

3.16.2 **Minimum Requirements**. Architect shall, at its expense, procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by Architect, its officials, officers, agents, representatives, employees, or subcontractors. Such insurance shall meet at least the following minimum levels of coverage:

(A) **Minimum Scope of Insurance**. Coverage shall be at least as broad as the latest version of the following: (1) General Liability: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (2) Automobile Liability: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); (3) Workers' Compensation and Employers' Liability: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance; and (4) Professional Liability: Coverage which is appropriate to Architect's profession, or that of its consultants or subcontractors.

(B) **Minimum Limits of Insurance.** Coverages shall provide limits no less than: (1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury, and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement or the general aggregate limit shall be twice the required occurrence limit; (2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage; (3) Workers' Compensation and Employer's Liability: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease; and (4) Professional Liability: Not less than \$1,000,000 per claim.

3.16.3 **Professional Liability.** Architect and its consultants and subcontractors shall procure and maintain, for a period of five (5) years following completion of the Project, errors and omissions liability insurance with limits discussed in this Section. This insurance shall be endorsed to include contractual liability.

3.16.4 **Insurance Endorsements.** The insurance policies shall contain the following provisions, or Architect shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

(A) **General Liability.** The general liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the performance of the Agreement by the Architect, its officials, officers, agents, representatives, employees or subcontractors, including materials, parts or equipment furnished in connection with such services; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of Architect's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, and agents shall be excess of Architect's insurance and shall not be called upon to contribute with it in any way.

(B) **Automobile Liability.** The automobile liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees and agents shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by Architect or for which Architect is responsible; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees and agents, or if excess, shall stand in an unbroken chain of coverage excess of Architect's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, and agents shall be excess of Architect's insurance and shall not be called upon to contribute with it in any way.

(C) **Workers' Compensation and Employers Liability Coverage.** The insurer shall agree to waive all rights of subrogation against the District, its directors, officials,

officers, employees, and agents for losses paid under the terms of the insurance policy which arise from work performed by Architect.

(D) **All Coverages.** Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (B) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees and agents.

3.16.5 **Separation of Insureds; No Special Limitations.** All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, and agents.

3.16.6 **Deductibles and Self-Insurance Retentions.** Any deductibles or self-insured retentions must be declared to and approved by the District. Architect shall guarantee that, at the option of the District, either: (A) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees, and agents; or (B) Architect shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.16.7 **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the District.

3.16.8 **Verification of Coverage.** Architect shall furnish the District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District, if requested. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.16.9 **Subcontractor and Consultant Insurance Requirements.** Architect shall not allow any of its architects, engineers, experts, or other consultants to commence work on any subcontract until they have provided evidence satisfactory to the District that they have secured all insurance required under this Section. If requested by Architect, the District may approve different scopes or minimum limits of insurance for particular architects, engineers, experts, or other consultants. Unless otherwise approved by the District, the architects, engineers, experts, and other consultants shall comply with each and every provision of this Section.

3.17 **Records.** Architect shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Architect shall allow a representative of the District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to

this Agreement. Architect shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of five (5) years from the date of final payment under this Agreement.

3.18 **Standardized Manufactured Items.** Architect shall cooperate and consult with the District in the 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 building design.

3.19 **Limitation of Agreement.** This Agreement is limited to and includes only the work included in the Project described herein. Any additional or subsequent construction at the site of the Project, or at any other District site, will be covered by, and be the subject of, a separate Agreement for architectural services between the District and the architect chosen therefor by the District.

3.20 **Mediation.** Disputes arising from this Agreement and any subsequent Amendments may be submitted to mediation if mutually agreeable to the Parties hereto. The type and process of mediation to be utilized shall be subject to the mutual agreement of the Parties.

3.21 **Successors and Assigns.** This Agreement shall be binding upon and shall inure to the benefit of the successors in interest, executors, administrators and assigns of each Party to this Agreement. However, Architect shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations without the prior written consent of the District. Any attempted assignment without such consent shall be invalid and void.

3.22 **Asbestos Certification.** Architect shall certify to the District, in writing and under penalty of perjury, that to the best of its knowledge, information and belief no asbestos-containing material or other material deemed to be hazardous by the state or federal government was specified as a building material in any construction document that Architect prepares for the Project. Architect shall require all consultants who prepare any other documents for the Project to submit the same written certification. Architect shall also assist the District in ensuring that contractors provide the District with certification, in writing and under penalty of perjury, that to the best of their knowledge, information and belief no material furnished, installed, or incorporated into the Project contains asbestos or any other material deemed to be hazardous by the state or federal government. These certifications shall be part of the final Project submittal. Architect shall include statements in its specifications that materials containing asbestos or any other material deemed to be hazardous by the state or federal government are not to be included.

3.23 **Disabled Veteran Business Enterprise Certification.** If required for this Project, Architect shall provide proof of DVBE compliance, in accordance with any applicable policies of the District or the State Allocation Board, within thirty (30) days of its execution of this Agreement. If Architect fails to comply with this requirement, the Agreement shall be deemed canceled.

3.24 **No Third Party Rights.** This Agreement shall not create any rights in, or inure to the benefits of, any third party except as expressly provided herein.

3.25 **Governing Law.** This Agreement shall be construed in accordance with, and governed by, the laws of the State of California. Venue shall be in San Diego County.

3.26 **Entire Agreement.** This Agreement, with its exhibits, contains the entire agreement of the Parties hereto, and supersedes any and all other prior or contemporaneous negotiations, understandings and oral or written agreements between the Parties hereto. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all Parties hereto.

3.27 **Exhibits and Recitals.** All exhibits and recitals contained herein and attached hereto are material parts of this Agreement and are incorporated as if fully set forth.

3.28 **Severability.** Should any provision in the Agreement be held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall continue in full force and effect.

3.29 **Non-Waiver.** None of the provisions of this Agreement shall be considered waived by either Party, unless such waiver is expressly specified in writing.

3.30 **Safety.** Architect shall execute and maintain its work so as to avoid injury or damage to any person or property. In carrying out its Services, Architect shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of its employees, consultant and subcontractors appropriate to the nature of the work and the conditions under which the work is to be performed.

3.31 **Delivery of Notices.** All notices permitted or required under this Agreement shall be given to the respective Parties at the following address, or at such other address as the respective parties may provide in writing for this purpose:

**DISTRICT:**

Mountain Empire Unified School District  
3291 Buckman Springs Road  
Pine Valley, CA 91962  
Attn: Gary Hobelman

**ARCHITECT:**

**[INSERT NAME/ADDRESS OF ARCHITECT]**

\_\_\_\_\_

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

Such notice shall be deemed made when personally delivered or when mailed, forty-eight (48) hours after deposit in the U.S. Mail, first class postage prepaid and addressed to the Party at its applicable address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.32 **Attorneys' Fees.** If either Party commences an action against the other Party, either legal, administrative, or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other reasonable costs of such action, including expert witness fees and expenses.

3.33 **Time of Essence.** Time is of the essence for each and every provision of this Agreement.

3.34 **District's Right to Employ Other Consultants.** The District reserves the right to employ other consultants, including Architects, in connection with this Project or other projects.

3.35 **Prohibited Interests.**

3.35.1 **Solicitation.** Architect maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Architect, to solicit or secure this Agreement. Further, Architect warrants that it has not paid, nor has it agreed to pay any company or person, other than a bona fide employee working solely for Architect, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the District shall have the right to rescind this Agreement without liability.

3.35.2 **Conflict of Interest.** For the term of this Agreement, no director, official, officer or employee of the District, during the term of his or her service with the District, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

3.36 **Equal Opportunity Employment.** Architect represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age, or any other classification protected by federal or state law. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination. Architect shall also comply with all relevant provisions of the District's minority business enterprise program, affirmative action plan or other related programs or guidelines currently in effect or hereinafter enacted.

3.37 **Labor Certification.** By its signature hereunder, Architect certifies that it is aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that Code, and agrees to comply with such provisions before commencing the performance of the Services.

3.38 **Fingerprinting Requirements.** Unless exempted, Architect shall comply with the requirements of Education Code Section 45125.1 with respect to fingerprinting of employees who may have contact with the District's pupils. Architect shall also ensure that its consultants on the

Project also comply with the requirements of Section 45125.1. To this end, Architect and its consultants must provide for the completion of the certification form attached hereto as **Exhibit "D"** and incorporated herein by reference prior to any of Architect's employees, or those of any other consultants, coming into contact with the District's pupils.

3.39 **Subcontracting.** As specified in this Agreement, Architect shall not subcontract any portion of the Services required by this Agreement, except as expressly stated herein, without prior written approval of the District. Subcontracts, if any, shall contain a provision making them subject to each and every provision of this Agreement.

3.40 **Supplemental Conditions.** Any supplemental conditions shall be attached as an exhibit to this Agreement, and that exhibit shall be incorporated herein by reference.

3.41 **Authority to Execute.** The persons executing this Agreement on behalf of their respective Parties represent and warrant that they have the authority to do so under law and from their respective Parties.

#### **MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
[INSERT TITLE]

[INSERT NAME OF ARCHITECT]

By: \_\_\_\_\_ Date: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Attest: \_\_\_\_\_  
[INSERT TITLE]

## EXHIBIT "A"

### SAMPLE AMENDMENT

#### AMENDMENT TO MASTER AGREEMENT FOR ARCHITECTURAL SERVICES

THIS AMENDMENT ("First Amendment") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the **MOUNTAIN EMPIRE UNIFIED SCHOOL DISTRICT**, (hereinafter referred to as the "District"), and \_\_\_\_\_ (hereinafter referred to as "Architect").

#### RECITALS

**WHEREAS**, on or about \_\_\_\_\_, 2022, the District and Architect entered into a Master Agreement For Architectural Services (the "Agreement") with Architect for provision of architectural services on the District-Wide Bond Program (collectively, the "Project"), with work to be assigned to Architect upon mutual written amendment to the Agreement as specific architectural work for specific components of the Project; and

**WHEREAS**, the District has now identified the need for architectural services pursuant to the Agreement for the following component(s) of the Project: \_\_\_\_\_; and

**WHEREAS**, the Agreement permits the District and Architect to amend the terms and conditions of the Agreement upon mutual written agreement of the Parties; and

**WHEREAS**, the District and Architect now desire to amend the Agreement to explicitly memorialize the mutually agreed upon scope of work and fee for Architect to provide design services for the component(s) of the Project identified above.

#### AGREEMENT

**NOW, THEREFORE**, in good and valuable consideration of the mutual promises and covenants contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

I. Amendment Terms.

The Agreement is hereby amended as follows:

A. Scope of Project Component Assigned. The Parties have agreed that the scope of work for the design services for the assigned component(s) of the Project shall be as described in **Exhibit "A"** to this Amendment. Except as expressly detailed and/or set forth in **Exhibit "A,"** all such design services shall at all times be fully compliant with all terms and conditions of the original Agreement, including, but not limited to the standard requirements for design services set forth therein.

B. Compensation. The Architect's compensation for the work set forth in this Amendment shall be a flat not-to-exceed fee of \_\_\_\_\_ Dollars (\$\_\_\_\_\_).

C. This First Amendment shall only be effective upon the execution by both the District and Architect.

D. This First Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

E. This First Amendment shall affect only the items specifically set forth herein, and all other terms and conditions of the original Agreement shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have, by their duly authorized representatives, executed this First Amendment to the Agreement for Architectural Services, as of the month, day and year first above written.

**MOUNTAIN EMPIRE UNIFIED  
SCHOOL DISTRICT**

**[INSERT ARCHITECT]**

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

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

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

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

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

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

## EXHIBIT "B"

### ARCHITECT'S SCOPE OF SERVICES

#### 1. GENERAL REQUIREMENTS.

1.1 **Basic Services.** Architect agrees to perform all the necessary professional architectural, landscape architectural, engineering (e.g., civil, mechanical, electrical, plumbing, structural, site engineering, and any other necessary engineering services) and construction administration services for the Project in a timely and professional manner, consistent with the standards of the profession, including those provided for herein.

1.2 **Exclusions from Basic Services.** The following services shall be excluded from the basic services listed above: **[INSERT LIST OF EXCLUDED SERVICES IF APPLICABLE]**.

1.3 **Additional Services.** None except as set forth in an Amendment executed by the Parties to specifically assign Architect one or more components of the Project.

The Architect shall perform the following additional services under this Agreement only if said services are authorized in advance in writing by the District. Said additional services shall be compensated in accordance with schedule in **Exhibit "C"**.

- A. Supervision of repair of damage to the Project not resulting from fault of the Architect.
- B. The selection by Architect, at the District's request, of movable furniture, equipment, or articles which are not included in the construction contract.
- C. The preparation of measured drawings of pre-existing structures as authorized by the District.
- D. The additional services caused by the delinquency or insolvency of the contractor.
- E. If directed or requested by the District, the employment of special consultants, the preparation of special delineation of models, and overtime work by the Architect's employees, except as otherwise required by this contract.
- F. Providing contract administration services after the construction contract time 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.

1.4 **Cooperation and Communication with District.** Architect shall cooperate and participate in consultations and conferences with the District, the District's consultants, authorized representatives of the District, and/or other local, regional, or state agencies concerned with the Project, which may be necessary for the completion of the Project or the development of the drawings, specifications, and documents in accordance with the applicable standards and requirements of law and the District. Such consultations and conferences shall continue throughout the planning and construction of the Project and the contractor's warranty period. Architect shall take direction only from the District's

Representative, or any other representative specifically designated by the District for this Project, including any construction manager hired by the District.

1.5 **Coordination and Cooperation with Construction Manager.** The District may hire a construction manager to administer and coordinate all or any part of the Project on its behalf. If the District does so, it shall provide a copy of its agreement with the construction manager so that Architect will be fully aware of the duties and responsibilities of the construction manager. Architect shall cooperate with the construction manager and respond to any requests or directives authorized by the District to be made or given by the construction manager. Architect shall request clarification from the District in writing if Architect should have any questions regarding the authority of the construction manager.

1.6 **Estimates.** In conjunction with the other duties described herein, Architect shall continuously monitor construction costs and provide detailed estimates at the completion of the initial planning phase, schematic plan phase, the design development phase, and any time during the final working drawings and specifications phase when design revisions or market conditions result in a potential change to the previously provided estimate. These estimates should include a breakdown of the work elements as well as contingencies in an amount that corresponds to the level of design completion.

## 2. **INITIAL PLANNING PHASE.**

DRAFT

During the initial planning phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

2.1 **Educational Programming.** Assist the District in the preparation of educational programming for the Project to define the scope, size, space relationship and site development.

2.2 **Project Feasibility.** Provide advice and assistance to the District in determining the feasibility of the Project, analysis of the type and quality of materials and construction to be selected, the site location, and other initial planning matters, including, but not limited to, developing a building program identifying and confirming the facility functions, square footage requirements, adjacency relationships, flow diagrams and equipment needs (including a preliminary construction cost estimate based on area costs). Existing equipment needs, data and inventory to be provided by the District.

2.3 **Meeting Budget and Project Goals.** Architect shall notify the District in writing of potential complications, cost overruns, unusual conditions, and general needs that potentially impact the Project budget and timeline, including the District's Preliminary Construction Budget. Architect shall use its best judgment in determining the balance between the size, type, and quality of construction to achieve a satisfactory solution within the Project's budget and construction allowance. It shall be the duty of Architect to suggest alternatives to the District which would reduce costs and to design the Project within budget and State Allocation Board cost standards, if any. As discussed below in Section 7 of this Exhibit, if the lowest responsive and responsible bid for the Project exceeds the budget by the stated percentage amount, Architect may be required to make the necessary changes in the drawing and specifications, at its sole cost and expense, to bring the bids within the required budget.

2.4 **Permits, Approvals and Authorizations.** As indicated in Section 3.5.4, Architect shall assist the District in securing easements, encroachment permits, rights of way, dedications,

infrastructures, and road improvements, as well as coordinating with utilities and adjacent property owners.

### 3. **SCHEMATIC PLAN PHASE.**

During the schematic plan phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

3.1 **Approval and Revisions.** The District shall review, study, and check the work product developed during the Initial Planning Phase and presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the District's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all the District requested changes, additions, deletions, and corrections in such work product at no additional cost, so long as they are not inconsistent with earlier District direction.

3.2 **Funding Documents.** If applicable, Architect shall provide a site plan and all other Project-related information necessary and required for an application by the District to any federal, state, regional, or local agencies for funds to finance the construction Project.

3.3 **Schematic Plans.** In cooperation with the District, Architect shall prepare the conceptual design of the Project, illustrating the scale and relationship of the Project components ("Schematic Plans"). The Schematic Plans shall include a conceptual site plan, if appropriate, and preliminary plans and studies, sections, elevations, schematic drawings, site utilization plans, and phasing plans showing the scale and relationship of the components of the Project, the plot plan development at the site, and the proposed architectural concept of the buildings. Architect shall incorporate the educational programs and the functional requirements of the District into the Schematic Plans. At Architect's option, the Schematic Plans may include study models, perspective sketches, electronic modeling, or combinations of these media. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. The Schematic Plans shall meet all laws, rules, and regulations of the State of California, including but not limited to, the regulations of the State Department of Education (5 Cal. Code Regs. § 14000 et seq.) or the Office of Public-School Construction ("OPSC"), as well as any guidelines implemented by the State Department of Education. All Schematic Plans shall be prepared in a form which may be submitted to the State Department of Education and OPSC for approval. The Schematic Plans shall show all rooms incorporated in each building of the Project in single line drawings, and shall include all revisions required by the District or by any federal, state, regional or local agency having jurisdiction over the Project. All architectural drawings for the Project shall be in a form suitable for reproduction.

3.4 **Preliminary Project Budget.** Architect shall use the District's Preliminary Construction Budget and its own expertise and experience with the Project to establish a preliminary project budget or allowance in a format required by the District or, if applicable, by any school construction funding agency identified by the District ("Architect's Preliminary Project Budget"). The purpose of the Architect's Preliminary Project Budget is to show the probable Project cost in relation to the District's Preliminary Construction Budget and the construction standards of any applicable funding agency. If Architect perceives site considerations which render the Project expensive or cost prohibitive, Architect shall disclose such conditions in writing to the District immediately. As stated below in Section 7 of this Exhibit, if the lowest responsive and responsible bid for the Project exceeds the budget by more than the stated percentage amount, Architect may be required to make the necessary changes in the drawings and

EXHIBIT "B"

specifications, at its sole cost and expense, to bring the bids within the required budget Architect shall provide a preliminary written time schedule for the performance of all construction work on the Project.

3.5 **Copies of Schematic Plans and Other Documents.** Architect, at its own expense, shall provide a complete set of the Schematic Plans described herein for the District's review and approval. Additionally, at the District's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by the District shall be provided at actual cost to the District.

#### 4. **DESIGN DEVELOPMENT PHASE.**

During the design development phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

4.1 **Approval and Revisions.** The District shall review, study, and check the Schematic Plans presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the District's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all District requested changes, additions, deletions, and corrections in the Schematic Plans at no additional cost, so long as they are not inconsistent with earlier District direction.

4.2 **Design Development Documents.** Once the District provides Architect with specific written approval of the Schematic Plans described herein, Architect shall prepare design development documents consisting of: (1) site and floor plans; (2) elevations; (3) sections; (4) typical construction details; (5) equipment layouts; and (6) any other drawings and documents sufficient to fix and describe the types and makeup of materials, as well as the scope, relationships, forms, size, appearance and character of the Project's structural, mechanical and electrical systems, and to outline the Project specifications (the "Design Development Documents"). The Design Development Documents shall be prepared in sufficient form to present to the District's Governing Board for approval.

4.3 **Copies of Design Development and Other Documents.** Architect, at its own expense, shall provide a complete set of the Design Development Documents described herein for the District's review and approval. Additionally, at the District's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by the District shall be provided at actual cost to the District.

4.4 **Updated Project Budget.** Architect shall use its Preliminary Project Budget and expertise and experience with the Project to establish an updated estimate of probable construction costs, containing detail consistent with the Design Development Documents as set forth herein and containing a breakdown based on types of materials and specifications identified herein (the "Architect's Updated Project Budget").

4.5 **Timetable.** Architect shall provide a written timetable for full and adequate completion of the Project to the District.

4.6 **Application for Approvals.** Architect shall assist the District in applying for and obtaining required approvals from all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Architect shall furnish and process all architectural and engineering information required to prepare and process applications to applicable utilities in order to secure priorities and materials, to aid in the construction of the Project and to obtain final Project approval and acceptance by any of the above agencies as may be required.

4.7 **Color and Other Aesthetic Issues.** Architect shall provide, for the District's review and approval, a preliminary schedule of all color materials and selections of textures, finishes and other matters involving an aesthetic decision about the Project.

4.8 **Incorporation of Post-Construction Stormwater Design Standards.** Architect shall incorporate post-construction design standards into the Project as follows:

A. Basic Requirements.

As part of the basic Services provided pursuant to this Agreement, Architect shall include in the design prepared for the Project as appropriate, the post-construction best management practices ("BMPs") necessary to ensure that the District and the contractor(s) comply with the State Water Resources Control Board (State Water Board) stormwater regulations applicable to the Project, including, but not limited to Water Quality Order No. 2003-0005-DWQ National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000004. The Architect shall include all costs associated with incorporating such BMPs into the design of the Project at no additional cost to the District.

B. Incorporation of Design Standards.

In order to ensure such compliance, Architect shall incorporate the following four Design Standards as goals for the design of the Project:

1. Conserve Natural Areas: Conservation of existing natural areas on the Project site to the maximum extent possible.
2. Volume and Flow Control: Incorporation of Structural and/or Treatment BMPs to manage the volume and flow of stormwater runoff from the Project site.
3. Minimization of Pollutants of Concern: Use of BMPs to reduce the discharge of pollutants from the Project site as described in Section C below.
4. Provide Ongoing BMP Maintenance: Incorporate and describe maintenance required for BMPs in Project plans so that District can ensure that the BMPs and stormwater system are performing as designed

EXHIBIT "B"

C. Specific Requirements for BMPs.

The BMPs Architect incorporates as part of the Design Standards described above, shall be designed to minimize pollutants of concern, and shall focus on mitigating the impacts caused by impervious surfaces by implementing BMPs that stress: (i) low impact design; (ii) source controls; and treatment controls. BMPs which may be used to comply with the above-described design standards may be found in U.S. EPA's Toolbox of BMPs at:

[http://cfpub1.epa.gov/npdes/stormwater/swphase2.cfm?program\\_id=6](http://cfpub1.epa.gov/npdes/stormwater/swphase2.cfm?program_id=6).

The Regional Water Quality Control Board may also have lists of approved references and resources.

5. **FINAL WORKING DRAWINGS AND SPECIFICATIONS.**

During the final working drawings and specifications phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

5.1 **Approval and Revisions.** The District shall review, study, and check the Design Development Documents presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the District's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project. Architect shall make all District requested changes, additions, deletions, and corrections in the Design Development Documents at no additional cost, so long as they are not inconsistent with earlier District direction.

5.2 **Final Working Drawings and Specifications.** Once the District provides Architect with specific written approval of the Design Development Documents described herein, Architect shall prepare such complete working drawings and specifications as are necessary for developing complete bids and for properly executing the Project work (the "Final Working Drawings and Specifications"). Such Final Working Drawings and Specifications shall be developed from the Schematic Plans and Design Development Documents approved by District. The Final Working Drawings and Specifications shall set forth in detail all of the following: (1) the Project construction work to be done; (2) the materials, workmanship, finishes, and equipment required for the architectural, structural, mechanical, and electrical systems; and (3) the utility service connection equipment and site work. As indicated in Section 3.10.2, the District may be requested to supply Architect with the necessary information to determine the proper location of all improvements on and off site, including existing record drawings ("existing record drawings") in the District's possession. Architect will make a good-faith effort to verify the accuracy of such information by means of a thorough interior and exterior visual survey of site conditions. The District shall also make a good-faith effort to verify the accuracy of the existing record drawings and provide any supplemental information to Architect which may not be shown on the existing record drawings. Architect shall not be responsible for the accuracy of the existing record drawings, except to the extent that any inaccuracy should have been detected by Architect, pursuant to its standard of care, from readily available documents and visual observations of existing conditions.

5.3 **Form.** The Final Working Drawings and Specifications must be in such form as will enable Architect and the District to secure the required permits and approvals from all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. In addition, the Final Working Drawings and Specifications must be in such form as will enable the District to obtain, by competitive bidding, a responsible and responsive bid within the applicable budgetary limitations and cost standards. The Final Working Drawings and Specifications shall be clear and legible so that uniform copies may be on standard architectural size paper, properly indexed and numbered, and shall be capable of being clearly copied and assembled in a professional manner by Architect.

5.4 **Approval and Revisions.** The District shall review, study, and check the Final Working Drawings and Specifications presented to it by Architect, and request any necessary revisions or obtain any necessary approvals by the District's Governing Board, subject to the approval of all federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Architect shall make all District-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications at no additional cost, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier District direction or Architect's professional judgment. Architect shall bring any such conflicts and/or inconsistencies to the attention of the District. The Parties agree that Architect, and not the District, possesses the requisite expertise to determine the constructability of the Final Working Drawings and Specifications. However, the District reserves the right to conduct one or more constructability review processes with the Final Working Drawings and Specifications, and to hire an independent architect or other consultant to perform such reviews. Any such independent constructability review shall be at the District's expense. Architect shall make all District-requested changes, additions, deletions, and corrections in the Final Working Drawings and Specifications which may result from any constructability review, at no additional cost to the District, so long as they are not in conflict with the requirements of public agencies having jurisdiction or prior approval, or inconsistent with earlier District direction or Architect's professional judgment. If such changes, additions, deletions, or corrections are inconsistent with prior District direction, Architect shall make such alterations and be compensated therefore pursuant to the Additional Services provision of this Agreement.

5.5 **Costs of Construction.** It is understood by Architect that should the Final Working Drawings and Specifications be ordered by the District, the District shall specify the sum of money set aside to cover the total cost of construction of the work, exclusive of Architect's fees. Should it become evident that the total construction cost will exceed the specified sum, Architect shall at once present a statement in writing to the District's Representative setting forth this fact and giving a full statement of the cost estimates on which the conclusion is based.

5.6 **Copies of Final Working Drawings and Specifications and Other Documents.**

Architect, at its own expense, shall provide a complete set of the Final Working Drawings and Specifications described herein for the District's review and approval. Additionally, at the District's expense, Architect shall provide such documents as may be required by any federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies. Any additional copies required by the District shall be provided at actual cost to the District.

6. **CONSTRUCTION CONTRACT DOCUMENTS.**

During the construction contract documents phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

6.1 **Bid and Contract Documents.** If so required by the District, Architect shall assist the District in the completion of all bid and construction documents, including but not limited to, the Notice Inviting Bids, Instructions to Bidders, Contract Bid Forms (including Alternate Bids as requested by District), Contract, General Conditions, Supplementary General Conditions, Special Conditions, other necessary conditions of the contract, Project Manual (e.g. conditions of the contract, specifications, and, if desired by the District, bidding requirements and sample forms), DVBE and other applicable affirmative action documents, Performance Bond, Payment Bond, Escrow Agreement for Security Deposits, and any other certifications and documents required by federal, state and local laws, rules and regulations which may be reasonably required in order to obtain bids responsive to the specifications and drawings. All such documents shall be subject to the approval of the District and the District's legal counsel.

6.2 **Final Estimate.** At the time of delivery of these bid and construction documents, which shall include the Final Working Drawings and Specifications (collectively referred to herein as the "Construction Documents"), Architect shall provide the District with its final estimate of probable construction cost ("Architect's Final Estimate"). As stated above, it shall be the Architect's duty to design the Project within budget and any applicable State Allocation Board cost standards.

7. **BID PHASE.**

During the bid phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

7.1 **Reproducible Construction Documents.** Once the District provides Architect with specific written approval of the Construction Documents and Architect's Final Estimate, Architect shall provide to the District one set of reproducible Construction Documents.

7.2 **Distribution of Contract Documents and Review of Bids.** Architect shall assist the District in distributing the Construction Documents to bidders and conducting the opening and review of bids for the Project. The District will reimburse Architect for the cost of reproducing bid sets, addenda, and related delivery charges.

7.3 **Over-budget.** If the apparent lowest responsive and responsible bid on the Project exceeds the Architect's Final Estimate by more than five percent (5%), the District may request Architect to amend, at Architect's sole cost and expense, the Final Drawings and Specifications in order to rebid the Project and receive a lowest responsive and responsible bid equal to or less than the Architect's Final Estimate. All revisions necessary to bring the lowest responsive and responsible bid within the Architect's Final Estimate, including any omissions, deferrals, or alternates, shall be made in consultation with, and subject to the approval of, the District.

## 8. **CONSTRUCTION PHASE.**

During the construction phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

8.1 **Observation.** The Project Architect shall observe work executed from the Final Working Drawings and Specifications in person, provided that the District may, in its discretion, consent to such observation by another competent representative of Architect.

8.2 **General Administration.** Architect shall provide general administration of the Construction Documents and the work performed by the contractors.

8.3 **Pre-Construction Meeting.** Architect shall conduct one or more pre-construction meetings, as the District determines is needed for the Project, with all interested parties.

8.4 **Site Visits of Contractor's Work.** Architect shall conduct site visits to observe each contractors' work for general conformance with the Construction Documents and with any approved construction schedules or milestones. Such site visits shall be conducted as often as are necessary and appropriate to the stage of construction, according to the District's sole discretion, but in no event less than weekly.

8.5 **Site Visits of Inspector's Work.** Architect shall conduct site visits to communicate and observe the activities of the Project inspectors, including the Inspector of Record. Such site visits shall be conducted as often as is mutually acceptable to Architect and District. Architect shall direct the Project inspectors and the Project contractors, and shall coordinate the preparation of record drawings indicating dimensions and location of all "as-built" conditions, including but not limited to, underground utility lines.

8.6 **Coordination of Architect's Consultants.** Architect shall cause all architects, engineers, and other consultants, as may be hired by Architect or the District, to observe the work completed under their disciplines as required, and approve and review all test results for general conformance with the Construction Documents.

8.7 **Reports.** Architect shall make regular reports as may be required by applicable federal, state or local laws, rules or regulations, as well as the federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services, the County in which the Project is located, the City in which the Project is located or any other appropriate federal, state, regional or local regulatory bodies.

8.8 **Construction Meetings; Minutes.** Architect shall attend all construction meetings and provide written reports/minutes to the District after each construction meeting in order to keep District informed of the progress of the work. Such meetings shall occur at a frequency necessary for the progress of the Project work, according to the District's sole discretion, but no less than weekly.

8.9 **Written Reports.** Architect shall make written reports to the District as necessary to inform the District of problems arising during construction, changes contemplated as a result of each such problems, and progress of the Project work. Architect shall not have control over the acts or omissions of the contractors, subcontractors or their agents or employees, or of any other persons or entities performing or supplying portions of the work which were not employed or hired by Architect. The contractor shall not be relieved of its obligation to perform the work in accordance with the Contract Documents either by activities or duties of Architect, or by tests, inspections or approvals required or performed by persons other than the contractor.

8.10 **Written Records.** Architect shall keep accurate written records of the progress and quality of the Project work and the time schedules, and shall advise the contractors and the District of any deviations from the time schedule which could delay timely completion of the Project.

8.11 **Material and Test Reports.** Architect shall check and process, in a timely manner, all required material and test reports for the Project work. In addition, Architect shall provide notice of any deficiencies in material or work reflected in such reports, as well as its recommendation for correction of such deficiencies, to the contractors, the District and federal, state, regional or local agencies concerned with the Project, including but not limited to, the State Department of Education, the Division of State Architect, the Department of General Services or any other appropriate federal, state, regional or local regulatory bodies.

8.12 **Review and Response to Submissions.** Architect shall review and respond, in a timely manner, to all schedules, submittals, shop drawings, samples, information requests, change requests, and other submissions of the contractor and subcontractors for compliance with, or alterations and additions to, the Construction Documents. Architect's review and response shall be done in such a manner so as to ensure the timely and uninterrupted progress of the Project work. Submission requests which involve more work or time than is normally required for routine submissions, as mutually determined by the Parties, may be the subject of additional compensation as Additional Services.

8.13 **Rejection of Work.** Architect shall promptly reject, as discussed with the District, work or materials which do not conform to the Construction Documents. Architect shall immediately notify the District and contractor(s) of such rejections. Architect shall also have the authority to recommend to the District that additional inspection or testing of the work be performed, whether or not such work is fabricated, installed, or completed.

8.14 **Substitutions.** Architect shall consult with the District, in a timely manner, with regard to substitution of materials, equipment and laboratory reports thereof, prior to the District's final written approval of such substitutions. Architect's consultation shall be done in such a manner so as to ensure the timely and uninterrupted progress of the Project work. Substitution requests which involve more work or time than is normally required for routine substitutions, as mutually determined by the Parties, may be the subject of additional compensation as Additional Services.

8.15 **Revised Documents and Drawings.** Architect shall prepare, at no additional expense to the District, all documents and/or drawings made necessary by errors and omissions in the originally approved Construction Documents.

8.16 **Change Requests and Material Changes.** Architect shall evaluate and advise the District, in a timely manner and in writing, of any change requests and material change(s) which may be requested or necessary in the Project plans and specifications. Architect shall provide the District with its opinion as to whether such change requests should be approved, denied, or revised. If the District has not hired a construction manager or other person to do so, Architect shall prepare and execute all change orders and submit them to the District for authorization. If the District has designated a construction manager or other person to prepare all change orders, Architect shall review all change orders prepared by such person, execute them, and deliver them to the District for authorization if they meet with Architect's approval, or submit them to the District with recommendations for revision or denial if necessary. Architect shall not order contractors to make any changes affecting the contract price without approval by the District of such a written change order, pursuant to the terms of the Construction Documents. Architect may order on its own responsibility and pending the District's Governing Board approval, changes necessary to meet construction emergencies, if written approval of the District's Representative is first secured. Architect may also authorize minor changes in the work, pending the District's approval, so long as such changes are not inconsistent with the intent of the Construction Documents and do not involve an adjustment in the contract sum or an extension of the contract time.

8.17 **Applications for Payment.** Architect shall examine, verify, and approve contractor's applications for payment, and shall issue certificates for payment in amounts approved by the Project Inspector of Record or the District's Representative, based on the Architect's observations at the site. The issuance of a certificate for payment shall not be a representation that Architect has: (1) made exhaustive or continuous on-site inspections of the work for which payment is sought; (2) reviewed construction means, methods, techniques, sequences or procedures for the work for which payment is sought; (3) ascertained how and for what purpose the contractor has used money previously paid; or (4) certified that the work for which payment is sought is without defects.

8.18 **Final Color and Product Selection.** Architect shall coordinate final color and product selection with District's original design concept.

8.19 **Substantial Completion.** Architect shall determine the date of substantial completion, in consultation with the District.

8.20 **Punch List.** After determining that the Project is substantially complete, Architect shall participate in the inspection by the IOR of the Project and shall review all remaining deficiencies and minor items needed to be corrected or completed on the Project, including those identified on the punch list prepared by the contractor ("Punch List Items"). Architect shall notify contractor in writing that all Punch List Items must be corrected prior to final acceptance of the Project and final payment. Architect shall also notify the District of all Punch List Items.

8.21 **Warranties.** Architect shall review materials assembled by the contractor and subcontractors with regard to all written warranties, guarantees, owners' manuals, instruction books, diagrams, record "as built" drawings, and any other materials required from the contractors and subcontractors pursuant to the Construction Documents. Architect shall coordinate and provide these materials to the District.

8.22 **Certificate of Completion**. Architect shall participate in any further inspections of the Project necessary to issue Architect's Certificate of Completion and final certificate for payment.

8.23 **Documents for Project Close-Out**. Architect shall cause all other architects, engineers, and other consultants, as may be hired by Architect, to file any and all required documentation with the District or other governmental authorities necessary to close out the Project. Architect shall assist the District in obtaining such documentation from all other architects, engineers, or other consultants.

## 9. **RECORD DRAWINGS.**

During the record drawings phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

9.1 **Record Drawings and Specifications**. Not later than thirty (30) days after substantial completion of the Project, before receipt of final payment, Architect shall review and forward the Final Working Drawings and Specifications, indicating on them all changes made by change orders or otherwise pursuant to the Construction Documents, as well as all information called for on the specifications, thus producing an "record" set of Final Working Drawings and Specifications ("Record Drawings and Specifications"). The Record Drawings and Specifications shall show, among other things, the location of all concealed pipe, buried conduit runs and other similar elements within the completed Project. Architect shall personally review and certify that the Record Drawings and Specifications are a correct representation of the information supplied to Architect by the Inspector of Record and the contractor, and shall obtain certifications from the Inspector of Record and the contractor that the drawings are correct.

9.2 **Approval**. Once the District provides Architect with specific written approval of the Record Drawings and Specifications, Architect shall forward to the District the complete set of original Record Drawings and Specifications or a complete set of reproducible duplicate Record Drawings and Specifications. The tracing shall be of such quality that clear and legible prints may be made without appreciable and objectionable loss of detail.

9.3 **Documents for Final Payment**. Prior to the receipt of Architect's final payment, Architect shall forward to the District all of the following: (1) one clear and legible set of reproductions of the computations; (2) the original copy of the specifications; (3) the Record Drawings and Specifications as required herein; (4) the final verified progress report required pursuant to Title 24 of the California Code of Regulations; and (5) Architect's Certificate of Completion.

## 10. **WARRANTY PERIOD.**

During the warranty period phase of the Project, Architect shall do all of the following, as well as any incidental services thereto:

10.1 **Advice**. Architect shall provide advice to the District on apparent deficiencies in the Project during any applicable warranty periods for the Project.

## EXHIBIT "C"

### COMPENSATION RATES AND REIMBURSABLE EXPENSES

[SAMPLE ONLY-TO BE NEGOTIATED]

1. **Hourly Compensation Rates.**

	HOURLY RATES
Principal	
Regional Vice President	
Educational Services	
Senior Project Manager	
Senior Healthcare Planner	
Director of Design	
Cost Estimator	
Project Manager	
Senior Construction Administrator	
Senior Designer	
Interior Design Director	
Designer	
Graphics	
Project Leader	
Technical Services/QA Plan Reviewer/Spec Writer	
Labor Compliance	
Interior Senior Designer	
Job Captain	
Senior Drafter	
Intermediate Drafter	
Junior Designer	
Educational Services Support	
Computer Services	
Interior Design/Project Coordinator	
Drafter	
Intern Architect	
DSA Coordinator	
Construction Administration Support	
Contract Administrator	
Admin Support	

These are the current hourly rates effective \_\_\_\_\_ through \_\_\_\_\_. Increases in the above hourly rates shall be made only by an authorized amendment to this Agreement.

2. **Reimbursable Expenses.**

**[INSERT AUTHORIZED REIMBURSABLE EXPENSES AS NEGOTIATED]**

3. **Additional Services.**

Additional Services shall be computed at the actual hourly rates described above.

4. **Additional Consultants.**

If District requires Architect to hire consultants to perform any Additional Services, Architect shall be compensated therefore at the consultant's actual hourly rates plus **[INSERT WRITTEN AMOUNT]** percent (\_\_\_\_%). District shall have the authority to review and approve the rates of any such consultants.

## EXHIBIT "D"

### CONTRACTOR FINGERPRINTING REQUIREMENTS

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#### Architect Certification

With respect to the Agreement dated \_\_\_\_\_ 20\_\_ by and between the **MOUNTAIN EMPIRE Unified School District** ("District") and **[INSERT NAME OF ARCHITECT]** ("Architect") for the provision of architectural services, Architect hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

\_\_\_\_\_  
Contractor's Representative

\_\_\_\_\_  
Date

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#### Architect Exemption

Pursuant to Education Code section 45122.1, the **MOUNTAIN EMPIRE Unified School District** ("District") has determined that **[INSERT NAME OF ARCHITECT]** ("Architect") is exempt from the criminal background check certification requirements for the service Agreement dated \_\_\_\_\_ by and between the District and Architect ("Agreement") because:

- ☐ The Architect's employees will have limited contact with District students during the course of the Agreement; or
- ☐ Emergency or exceptional circumstances exist.

\_\_\_\_\_  
District Official

\_\_\_\_\_  
Date

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### **Architect's Consultant Certification**

The **MOUNTAIN EMPIRE Unified School District** ("District") entered into an agreement for architectural services with **[INSERT NAME OF ARCHITECT]** ("Architect") on or about \_\_\_\_\_ ("Agreement"). This certification is submitted by \_\_\_\_\_, a consultant to the Architect for purposes of that Agreement ("Consultant"). Consultant hereby certifies to the District's governing board that it has completed the criminal background check requirements of Education Code section 45125.1 and that none of its employees that may come in contact with District pupils have been convicted of a violent felony listed in Penal Code section 667.5(c) or a serious felony listed in Penal Code section 1192.7(c).

\_\_\_\_\_  
Consultant's Representative

\_\_\_\_\_  
Date

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### **Architect's Consultant Exemption**

The **MOUNTAIN EMPIRE Unified School District** ("District") entered into an agreement for architectural services with **[INSERT NAME OF ARCHITECT]** ("Architect") on or about \_\_\_\_\_ ("Agreement"). Pursuant to Education Code section 45122.1, the District has determined that \_\_\_\_\_, a consultant to the Architect for purposes of that Agreement ("Consultant"), is exempt from the criminal background check certification requirements for the Agreement because:

- ☐ The Consultant's employees will have limited contact with District students during the course of the Agreement; or
- ☐ Emergency or exceptional circumstances exist.

\_\_\_\_\_  
District Official

\_\_\_\_\_  
Date

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EXHIBIT "C"